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IN THE SUPREME COURT OF INDIA  
(CIVIL ORIGINAL JURISDICTION)  
WRIT PETITION (CIVIL) NO. 342 OF 2017

IN THE MATTER OF:

SHANTHA SINHA AND ANOTHER

...PETITIONERS

VERSUS

UNION OF INDIA AND OTHERS

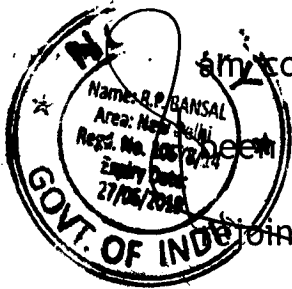
...RESPONDENTS

AND IN THE MATTER OF:

REJOINDER AFFIDAVIT ON BEHALF OF THE  
PETITIONERS TO THE COMMON COUNTER-AFFIDAVIT  
FILED BY THE RESPONDENT NO.2

I, Kalyani Menon Sen, aged about 64 years, d/o Late Shri R.G Menon,  
residing at J-1229 Palam Vihar, Gurugram 122017 now present at New  
Delhi at do hereby solemnly affirm and state as under:

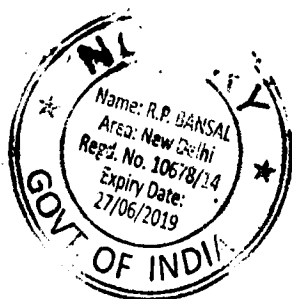
1. That I am the Petitioner No.2 in the above captioned matter. I am  
conversant with the facts and circumstances of the case. As such I  
am competent to swear this affidavit. I further state that I have  
been authorised by the other Petitioner to swear the present  
joinder on her behalf.



2. I say that the allegations and averments made against the  
Petitioners in the counter-affidavit filed by the Respondent No.2  
the Government of UIDAI, are denied except to those that are  
specifically admitted herein. I state that this affidavit may be

treated as a short rejoinder as it is deemed by the Petitioner that a detailed para-wise rejoinder is not required at this point. However, it is stated the Petitioner reserves the right to file further rejoinders, including bringing crucial documents on record, should the Respondent file any more supplementary counter-affidavits as has been indicated by them.

3. It is humbly submitted by the Petitioners at the outset, that AADHAAR is an insecure, unreliable, unnecessary and inappropriate technology project which is being foisted with coercion on the most vulnerable section of Indians and is threatening their constitutional and legal rights and entitlements every day by denying access to basic needs such as food and adequate nutrition; mid-day meals in school; rehabilitation benefits due to the rescued bonded labourers; rehabilitation benefits due to the families of victims and the survivors adversely affected by the Bhopal gas leak etc. It further gives rise to surveillance, breach of privacy and identity theft of individuals being in conflict with inter alia their rights under Articles 14, 19 and 21 of the Constitution of India. The Petitioners reiterates that the Union of India/Respondent's seeking to justify Aadhar by referring to "practices in other democracies" actually contravenes its own case, since all these other democracies viz. UK, USA etc. have expressly considered and thereafter, rejected the idea of having national databases based on biometric authentication of its citizens.

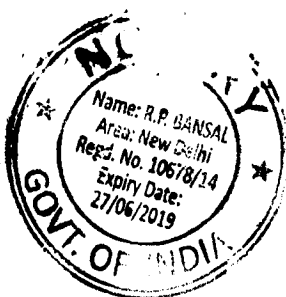


ORDERS OF THIS HON'BLE COURT

4. That the references made by Respondent to the Petitions and Orders of this Hon'ble are not denied inasmuch as they are matters of record however the interpretation and averments sought to be drawn from them are disputed for the following reasons:

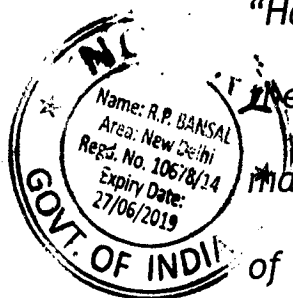
a. That this Hon'ble Court has vide its Order dated May 09, 2017 referred the instant matter, i.e. W.P. (C) No. 342 of 2017 to be tagged along with W.P. (C) No. 494 of 2012 to a larger bench. Subsequently on May 12, 2017 this Hon'ble Court pursuant to a mentioning by the Petitioner directed the consideration of the interim prayers which are made in the instant petition. On a hearing dated May 19, 2017 objections were made by the Respondent with respect to the purported overlap of interim reliefs in the existing petition and W.P. (C) No. 797 of 2016 being S.G. VOMBATKARE & ANR. Vs. UNION OF INDIA on which the Hon'ble Court directed as follows:

*"During the course of hearing our attention was invited to the fact that the application filed in other pending Writ Petition (C) No.797/2016, involve similar issues as will be considered in the present application for interim relief. If that is so, in our considered opinion it is appropriate that all the applications involving overlapping issues are heard together analogously to avoid multiplicity of hearing on the same subject matter. As a result, we defer the hearing of this matter with a direction to list I.A. No.4 and 5 in W.P. No.797/2016 and other applications in the companion writ petition(s) if any, for grant of interim relief."*



It is submitted that this Hon'ble Court has considered the contentions of both parties with respect to the purported overlap in prayers of interim relief in Writ Petition No. (C) 342 of 2017 and Writ Petition No. 797 of 2017 and directed them to be adjudicated together. A copy of the Orders dated May 12, 2017 and May 19, 2017 are annexed herein and are marked as ANNEXURE P-37 and ANNEXURE P-38 respectively.

- b. That a 3 judge bench of this Hon'ble Court by an Order dated August 11, 2015 in W.P. (C) No. 494 of 2012 had referred various writ petitions challenging the Aadhaar scheme to a bench size of appropriate strength. This was pursuant to the Respondent and the Union of India that disputed the jurisprudential correctness of the decisions of this Hon'ble Court with respect to the fundamental right to privacy. That on the same date, i.e. August 11, 2015 by way of a separate Order this Hon'ble Court was pleased to direct interim reliefs in which it, (a) limited the number of schemes to which Aadhaar could be made operative; and (b) even in such schemes made the use of Aadhaar voluntary. The operative portion of the Order dated August 11, 2015 is quoted below:



*"Having considered the matter, we are of the view that the balance of interest would be best served, till the matter is finally decided by a larger Bench if the Union of India or the UIDA proceed in the following manner :-*

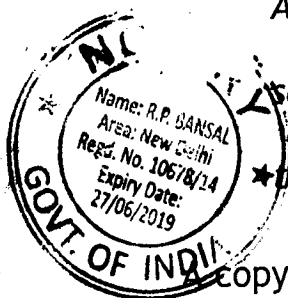
1. The Union of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar card;

2. The production of an Aadhaar card will not be condition for obtaining any benefits otherwise due to a citizen;

3. The Unique Identification Number or the Aadhaar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as kerosene. The Aadhaar card may also be used for the purpose of the LPG Distribution Scheme;

4. The information about an individual obtained by the Unique Identification Authority of India, while issuing an Aadhaar card shall not be used for any other purpose,

save as above, except as may be directed by a Court for the purpose of criminal investigation."

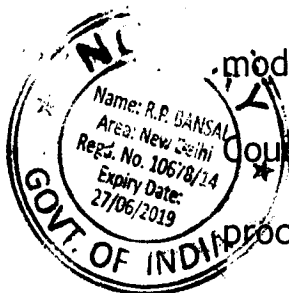


A copy of the Order dated August 11, 2015 is already annexed by the Petitioner in the main petition and has been marked as ANNEXURE P-10.



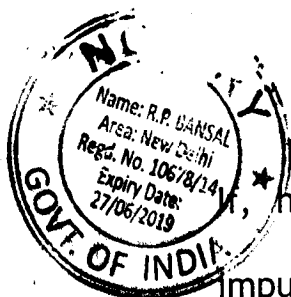
c. That subsequently the Union of India and several other government entities sought a clarification/modification of the Order dated August 11, 2015 it was passed on 15<sup>th</sup> October, 2015 a 5-judge constitutional bench. Such a clarification/modification was sought to relax of the restraints placed by the pre-existing Order dated August 11, 2015 inasmuch it sought several reliefs including the use of Aadhaar in further schemes. This Hon'ble Court deemed it appropriate to constitute a bench, "only for the purpose of deciding the applications filed by the Union of India seeking certain clarification/modification in the orders passed by a Bench of three learned judges of this Court dated 11.08.2015". A copy of the Order dated 15<sup>th</sup> October, 2015 is already annexed by the Petitioner in the main petition and has been marked as ANNEXURE P-11.

d. It is humbly submitted that the Respondent is incorrectly linking practice which was followed by this Hon'ble Court for a modification/clarification application with the present application for interim reliefs. Such course of practice is incorrectly averred by the Respondent linking it to a doctrine of judicial discipline. It is submitted that no modification/clarification of an existing order of this Hon'ble Court sought by the Petitioners. The nature of the present proceedings is with respect to interim relief given that the Respondent has sought during the pendency of proceedings to



extend the scope, ambit and extent of the Aadhaar scheme not only causing a violation of fundamental rights but further deprivation from entitlements such rations and cooking gas and other entitlements. Indeed, if the Respondent were to rely upon the interim order dated 15th October 2015, it is respectfully submitted that that Order makes it very clear that Aadhaar cannot be used for *any* scheme apart from the schemes listed in that Order. It has been Respondent's own case before this Hon'ble Court that any prior order stands overridden by virtue of the passage of the Aadhaar Act, and Section 7 thereof. Respondent cannot simultaneously make that submission (which it does in paragraphs 3(k) and 3(l), and also estop Petitioner from raising a fresh challenge to the impugned notifications in the present case (which it does in paragraph (which it does in paragraph 3(i)) Indeed, in paragraph 3(k), the Respondent specifically states that:

"The notifications sought to be challenged in the present petitions have been issued pursuant to the Aadhaar Act, 2016, in accordance with the law which holds the field."

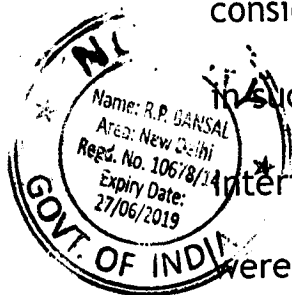


however, Respondent is correct that the basis of the impugned notifications is different from the basis on which the interim order dated 15th October 2015 was passed, then *a fortiori* the ground of challenge in the present case is not

limited by that interim order either. Consequently, Petitioners respectfully reiterate that the present bench is entirely competent to hear and decide the present matter.

e. Furthermore, it is humbly submitted that the interim reliefs are extremely urgent given they *inter alia* seek reasonable exclusions for vulnerable categories of persons including children who avail mid day meal schemes and Bhopal gas leak tragedy victims. It is respectfully submitted that Respondent's contention, in paragraph 3(n), that Petitioners have failed to demonstrate the violation of any fundamental right, and are basing their case on vague apprehensions, is controverted by the evidence put forth by the Petitioners (adverted to in the petition and also below) that clearly demonstrates violations of Article 21, insofar as eligible individuals have been denied or excluded from accessing essential social services.

f. That the Respondent has incorrectly made a reference to the Order dated January 5, 2017 wherein a mentioning was made for early listing to suggest that the interim prayers which are before the consideration of this Hon'ble Court have been considered and rejected earlier. There is factual inconsistency

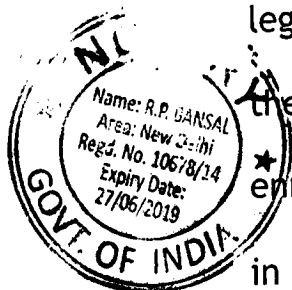


in such submission given there was no prayer or arguments for interim relief made on January 5, 2017 as the submissions were limited to seeking an early hearing. That further, the interim applications for stay of notifications had not even

been filed by that time given that most notification came to be made on a later date.

g. That the Petitioner restates all arguments with respect to the necessity of interim reliefs and the validity of existing orders of this Hon'ble Court. It is humbly submitted that Respondent has made an incorrect statement that the interim orders of this Hon'ble Court do not hold even subsequent to the Aadhaar Act, 2016 coming into force on 12.09.2016. In this respect the Petitioner again refers to the Order dated 14.09.2016 passed by this Hon'ble Court in W.P. No. (C) 607/2016 which is already annexed to the Petition and marked as ANNEXURE P-14.

h. That further, the Deponent wishes to bring to the notice of this Hon'ble Court, the judgment and order dated 09.06.2017 in **BINOY VISWAM V. UNION OF INDIA** (W.P.(C) 247/2017 etc.), a batch of writ petitions that had impugned Section 139AA of the Income-Tax Act, as amended by Finance Act, 2017 which provided for mandatory linking of Aadhaar and PAN cards on various grounds. Therein, the Hon'ble Court deemed it fit and proper to issue a partial stay on the legislative provision in the proviso to sub-section 139AA(2) of the Income-Tax Act, in relation to people who have not yet enrolled for Aadhaar in light of the fact that the larger issue in relation to the Aadhaar project and Article 21 were still

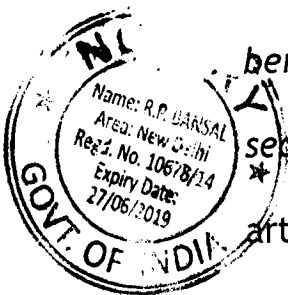


pending before the Constitution Bench.

**STANDING OF THE PIL PETITIONERS & EXCLUSION DUE TO AADHAAR**

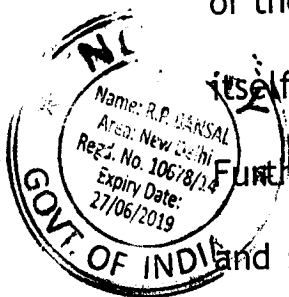
5. The contents of the Counter-affidavit of the Respondent further proceed to canvass arguments premised on the lack of representative character which are not only incorrect in law and fact but also improper for the following reasons:

- a. That the counter affidavit seeks to impugn the bona fides of the Petitioner in approaching this Hon'ble Court with respect to which the Petitioner craves to refer to Paras 1(a) and 1(b) which contain their detailed profile. It is humbly submitted that the Petitioners are persons who are credible voices on public issues having devoted their professional lives in social service. Their work and expertise deals with marginalized and vulnerable groups such as migrant communities, women workers in the informal sector and children whose cause they have brought forth to this Hon'ble Court. With respect to the unfortunate comments contained in the counter affidavit such as, *"while a handful of individuals who are not aggrieved by the Act are questioning its vires and consequently, the benefits it seeks to make available to the poorer and weaker sections of society"*, and the Petitioners make reference to an article dated, June 6, 2017 published in the Wire titled as, *"Who is opposing the Aadhaar Project"* which is annexed



herein and marked as ANNEXURE - P39.

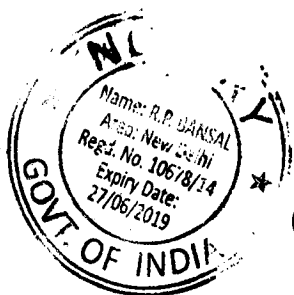
b. That the Respondent has also made a general, incorrect suggestion that the Petitioner has failed to point out any illegalities with respect to the Aadhaar Act, 2016. It is submitted in this regard that the Petitioner has stated *in extenso* within the grounds of the Petition that Aadhaar results in exclusion and deprivation of fundamental rights. The Petition indicates grave illegalities which include lack of legislative competence and a fraud on the constitution given the passage of the Aadhaar Act, 2016 as a money bill. Further the Aadhaar Act, 2016 and the notifications made thereunder make the possession of application for an Aadhaar as a condition precedent to avail constitutional and statutory rights to rations and other entitlements such as the right to education. It is humbly submitted that there is no ambiguity in the assertion that Aadhaar has become a necessary condition precedent for availing of government schemes as per the notifications issued by the Respondent. The limited waiver which exists is only available for those who have applied for a Aadhaar but not received it. Hence, in effect the possession or the application of Aadhaar has been made mandatory which itself conflicts *inter alia* with Articles 14, 19, 21 and 21A. Further grounds which establish a deprivation of fundamental and statutory rights are listed in extensive detail within the grounds of the Petition and not repeated herein for the sake



brevity.

c. That the faulty premise of the argument of the Respondent for an ostensible lack of representative character is based on the number of persons who have been enrolled within the Aadhaar Scheme. Herein the Respondent has attempted to conflate the number of persons enrolled to argue an impossibility of exclusion. To make such an assertion it brings forth two statistics, the first being more than 95.10% of India's entire population and more than possesses a Aadhaar and further with 115.15 Crore enrollments Aadhaar has the widest coverage amongst citizens. It is humbly submitted such figures amount to puffery as:

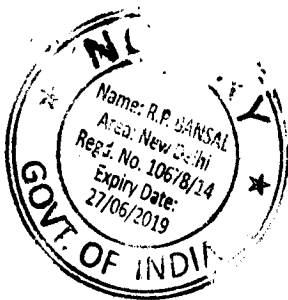
- (i) Aadhaar enrollment has been open to residents (a wider or at the very least a distinct class) rather than citizens for enrollment;
- (ii) Enrollment has been done on the back of coercive measures where people have been denied or have feared disruption in entitlements until they apply or obtain Aadhaar, something that is evident from the terms of the impugned notifications themselves, which threaten disruption of essential services by a specified date as a result of failure to enrol in Aadhaar;
- (iii) Aadhaar enrollment has been without adequate verification and in many instances the Respondent



itself has stated that the enrollment has been over 110% of the recorded population in many states giving concerns as to fraud within the system; in states such as Delhi, enrolment stands in excess of 115%.

- (iv) The basis of the percentage and the numbers includes persons who are deceased; (e) In a Right to Information response dated December 28, 2016 the Respondent itself stated that 99.9% persons who have an Aadhaar obtained it on the basis two pre-existing IDs. The Respondent stated that till 2016, when over 105.1 crore residents had enrolled, only 8,47,366 - or 0.08% - got Aadhaar through "introducer system." Hence, the claim that Aadhaar has rather than being an instrument of exclusion instead resulted in inclusion is deeply flawed.

A copy of an article dated March 5, 2017 published in Scroll titled as, "Not just mid-day meals: Aadhaar made mandatory for 11 more schemes, violating Supreme Court ruling" which quotes the RTI is annexed herein and marked as ANNEXURE - P40.

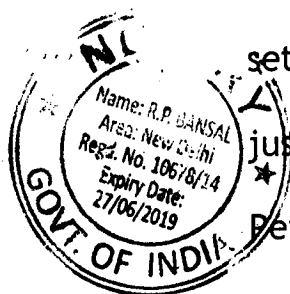


- d. In any event, Petitioners submit that Respondent's submission that the alleged fact of 95.10% enrolment deprives Petitioners



of *locus standii*, misconceives the character of fundamental rights under the Constitution of India, which are guaranteed to *all*, even those in a minuscule minority.

e. It is submitted that Aadhaar becomes an additional barrier both in terms of enrollment/possession and authentication to pre-existing methods of identification hence leading to exclusion. Further the figures canvassed by the Respondent have not passed through an audit exercise and by themselves cannot be linked to the inclusion or exclusion of entitlements. It is respectfully submitted that, following the general principles set out in Section 106 of the Evidence Act, where specific information is in possession of one party to a litigation, the evidentiary burden of proof in such a case should be upon that party, it is incumbent upon the Respondent to support its figures through a formal audit exercise. It is respectfully submitted that this obligation is greater in cases where a *prima facie* infringement of fundamental rights has been made out; it has been well-settled by this Hon'ble Court that in such cases, the burden of justification shifts to the State. In the present case, Petitioners have produced uncontroverted evidence of specific instances where mandatory enrolment in Aadhaar has resulted in exclusion that is a direct violation of the right to life under Article 21 of the Constitution.

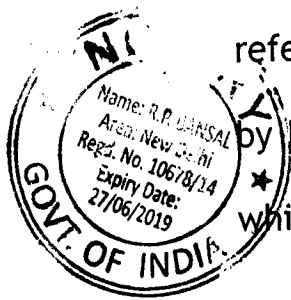


f. It is further submitted that there exist no reasonable class of

exclusions in the notifications made under the Aadhaar Act, 2016 which are applicable to persons irrespective of disability, age or other factors. It is submitted that in the absence of any such reasonable class of exclusions Aadhaar has been made mandatory for vulnerable sections such as:

- (a) bonded labourers;
- (b) children availing mid-day meals especially in drought prone areas;
- (c) allowance, benefits and scholarships for students with disabilities.

That the Respondent has also completely failed to address any arguments with respect to the exclusions which result to persons who possess a Aadhaar but are subsequently removed from the system without any legal process or observance with the principles of natural justice, something that is expressly contemplated and made permissible by the Aadhaar Act and Rules. The Petitioner craves leave of this Hon'ble Court to refer to the Article titled, "UID: from inclusion to exclusion"

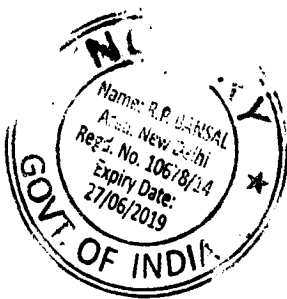


by Prof. Reetika Khara dated May, 2015 published in seminar which is annexed hereto and is marked as **ANNEXURE - P41**.

g. It is further submitted that Aadhaar results in exclusion not only through the process of enrollment but also its use, which is often referred to as authentication. That the Petitioner has made extensive submissions, supported by numerous examples, citing that Aadhaar is an unreliable, experimental

technology which relies on biometrics that is prone to authentication errors. The consequence of each such error is the denial of an entitlement or a benefit which, in turn, violates that individual's right to life under Article 21 of the Constitution. Some individual instances are cited with reference to press reports to demonstrate the use cases in which such errors are occurring and the hardship they are causing:

- i) A Times of India report dated March 3, 2017 which shows a picture of Kotra (Rajasthan) in which people are climbing trees to enable biometric authentication for obtaining rations is annexed hereto and is marked as **ANNEXURE - P42**.
- ii) A Prabhat Khabar report translated into english dated May 15, 2017 which states that, "*Card holders of Lovadeh village of Harin Panchayat of the eastern sector of the Block have to travel 1.5 to 2 km give fingerprint and collect ration. Poor labors of the village have to stop their work for one day to collect the ration... Ration dealer Basudev Das has to travel 1.5 to 2km, in scorching summers, in search of higher ground for the network, for the whole day, to get thumb scans of the villagers.*" is annexed hereto and is marked as

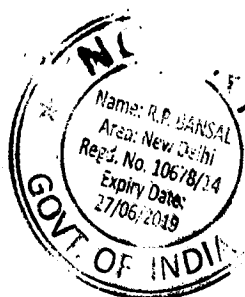


## ANNEXURE - P43.

- iii) A Prabhat Khabar report translated into english dated June 1, 2017 which states that, *"Beneficiaries have to travel 25kms from Parsodeeh to Bhavnathpur for ration. According to the beneficiaries, if their thumb impression didn't match, they have to come to Bhavnathpur over and again."* is annexed hereto and is marked as ANNEXURE - P44.

- iv) A Nayi Duniya City report translated into english dated March 29, 2017 which states that, *"Many times, beneficiaries can't access their pensions when their fingerprint didn't match."* is annexed hereto and is marked as ANNEXURE - P45.

It is submitted that these press reports are from rural and semi-urban areas and gathered from the local press are only illustrative of a much larger hardship and denial being caused due to Aadhaar. Such an unreliable system, even if not causing denial, is leading to gross indignity and violation of rights in which the most vulnerable group of Indians are being made to climb trees, roofs or travel long distances repeatedly due to the inherent technological deficiencies of Aadhaar which can no longer be considered as teething problems.

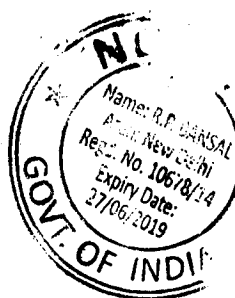


h. Further studies confirm that the denial of constitutional and statutory entitlements due to such authentication errors is not an outlier or an, "edge" case but concern large percentages of persons who are otherwise legally entitled to avail such benefits. For instance, the National Economic Survey 2016-17 released by the Ministry of Finance itself states that:

*"9.76 While Aadhaar coverage speed has been exemplary, with over a billion Aadhaar cards being distributed, some states report authentication failures: estimates include 49 percent failure rates for Jharkhand, 6 percent for Gujarat, 5 percent for Krishna District in Andhra Pradesh and 37 percent for Rajasthan. Failure to identify genuine beneficiaries results in exclusion errors."*

A copy of the extract of the National Economic Survey 2016-17 is annexed hereto and is marked as **ANNEXURE - P46**.

i. A further door to door survey by independent researchers conducted in Andhra Pradesh published in the Economic and Political Weekly found the following results:



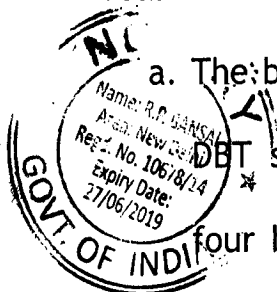
*"Of the 80 households surveyed, 71 (89%) reported receiving full entitlements at correct prices even before the introduction of ABBA (Aadhaar Based Biometric Authentication)... beneficiaries face persistent and pervasive issues related to ABBA. Among the surveyed households, 35 (70%) "successful" and 18 (60%) "no-show" households reported issues with one or more of*

*the five technological components of the system... Almost 40% of the surveyed households reported persistent fingerprint authentication errors, that only specific fingers worked, or that only certain household member's fingerprints worked.... Elderly persons and women engaged in domestic work or manual labour especially expressed distress over fingerprint authentication errors. Incidentally, early warnings of this issue were raised in early UIDAI documents (Committee on Biometrics-UIDAI 2009:4)."*

A copy of the research paper authored by Anmol Somanchi, Srujana Bej and Mrityunjay Pandey titled "Well Done ABBA?" published in the Economic and Political Weekly from the February, 2017 issue is annexed hereto and is marked as ANNEXURE - P47.

**FALSE CLAIMS OF SAVINGS DUE TO AND ACHIEVEMENTS OF AADHAAR -  
PURE EXAGGERATION & WITHOUT ANY BASIS**

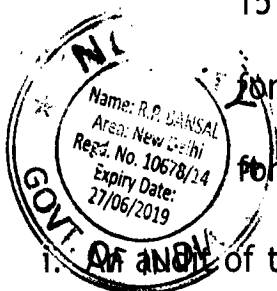
6. That the Respondent in its counter affidavit has repeatedly canvassed a figure of Rs. 49,560 Crores as savings from Direct Benefit Transfer Scheme for the period of 2014-15 and 2015-16 which is incorrect and a gross exaggeration for the following reasons:



a. The breakup of the financial benefits accrued on account for DBT since 2014 is contained in Para 10(q) which illustrates four basic schemes, i.e. PAHAL, PDS, MGNREGS, NSAP, and the fifth being a residuary category, "others". Each such

figure is disputed, its methodology of computation has not been revealed and there exist material doubts as to the financial benefits which are alleged to have accrued. It is also relevant to consider that these, "savings" are, "gross savings" at the very best since all available data points indicate that no costs have been factored into their tabulation. Petitioners reiterate their submissions that bald assertions of fact by the Respondent, in a case where the necessary information is in the possession of the Respondent, ought not to be accepted *simpliciter*. In view of the serious concerns which arise this Hon'ble Court may examine an audit by the Comptroller & Auditor General of India into the veracity of such claims which have been made before this Hon'ble Court.

- b. The first large chunk of savings incorrectly alleged by the Respondent is with respect to the PAHAL scheme amounting to Rs. 26,408 crores which forms more than half of it's total estimated savings of Rs. 49,560 crores. The estimated savings of Rs. 26,408 crores are further derived from periods of 2014-15 being Rs. 14,672 crores, 2015-16 being Rs. 6,912 crores and for 2016-17 being Rs. 4,824 crores. These figures are incorrect



for the following reasons:

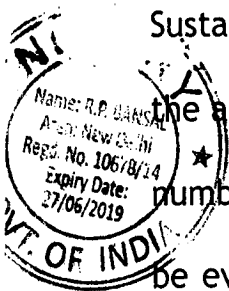
- i. **OF AND** of the savings claim for the entire PAHAL scheme done by CAG for the period April – December 2015, points out that most of the savings (92%) is because of the fall in LPG price in the international market, and only 8% (₹1764 Crore) can be attributed to various

initiatives (UID being just one among them) that reduced demand for subsidised cylinders. The CAG analysis also notes that the Respondent has inaccurately classified 3.34 crore inactive connections as active connections illegally drawing subsidised LPG prior to the launch of PAHAL. This contradicts the Government figures from before that show such connections had been inactive for years and the majority of the remainder were inactive for reasons unconnected to PAHAL or Aadhaar. Hence, there are serious doubts which arise with respect to not only the savings but the efficacy of Aadhaar to, “weed out” fake or duplicate customers.

- ii. The Petitioner further seeks to make reference to the Cabinet Secretary Note on Implementation of DBT in Government Schemes dated November 30, 2015 (the same period as the CAG report) further states that:

“PAHAL has lower to reduction in number of consumers who are availing subsidy and there is a significant decrease in cash transfer failures. De-duplication on Aadhaar and bank accounts is being done on a monthly basis. More than 8.35 lakh duplicate Aadhaar numbers and 4.5 lakh duplicate bank accounts were identified and almost 9 lakh duplicate connections have been blocked which resulted in annual subsidy saving of R. 91 crore.”

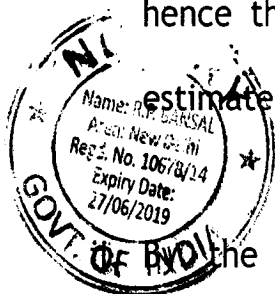
- iii. That further analysis by the researchers at the International Institute for Sustainable Development, or IISD, a think tank, on the basis of applying the actual cost of subsidy, number of cylinders used on average, and the number of Aadhaar-seeded accounts pegs the estimated gross savings to be even lower amount of about Rs. 120 crores. It is submitted this has been done without accounting for the cost of implementing Aadhaar-enrolment, seeding, linking, through contracted agencies. The IISD





researchers noted that this “misrepresentation” is “extremely damaging” to the design of future reforms. A copy of the IISD study titled as, “estimating the Impact of India’s Aadhaar Scheme on LPG Subsidy Expenditure” dated February, 2016 is annexed hereto and is marked as ANNEXURE - P48.

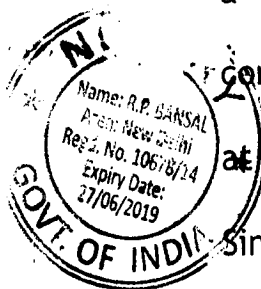
- c. The second large chunk of savings which has been claimed is with respect to PDS with a purported deletion of 2.33 crore ration cards upto 2016-17 resulting in a purported saving of Rs. 14,000 crores.
- i. The deletion of these 2.33 crore ration cards as per a presentation given by the Department of Food and Public Distribution dated September 15, 2016 at the Food Secretaries Conference states that, *“DoFPD is not making any discretion between Deleted/Cancelled Ration Cards on account of Ineligibility, detection of Ghost / fraudulent / duplicate during the process of digitisation, transfer, migration, deaths, de-duplication due to Aadhaar, change in economic status (e.g. Govt. Job) etc. But States/UTs shall start collecting data on these parameters also (especially Aadhaar Seeding).”* This clearly indicates that at best that only a fraction of the total deletions can be attributed to Aadhaar and hence the figure of total savings of Rs. 14,000 crores is not a gross estimate but a gross exaggeration.



The Hon'ble Minister of Consumer Affairs, Food and Public Distribution on November 22, 2016 in which a further breakup is provided of this total figure of 2.33 Crore ration cards which have been

claimed to be deleted by the Respondent due to Aadhaar. In the reply there are two Annexures provided, with Annexure - I reading as, "Status of End-to-End Computerization of TPDS Operations (as on 15.11.2016)" and Annexure - II reading as, "Updated Statement of Deleted Ration Cards". Under Annexure - I for the State of Assam under the head Aadhaar seeding in ration cards is shown as 0%. Hence, there has been no seeding of Aadhaar in the State of Assam. Further in Annexure - II for the State of Assam they show a total of 72,746 ration cards which have been deleted which are taken towards the cumulative sum of 2.33 crores. It is humbly submitted that this illustrates the unreliability and gross exaggeration of the Respondents assertion where it has attributed any and all savings to Aadhaar without any proper methodology, transparency and often in direct conflict of its own data. A copy of the answer in parliament dated November 22, 2016 by the Hon'ble Minister of Consumer Affairs, Food and Public Distribution is annexed hereto and is marked as ANNEXURE - P49.

d. With respect to MGNREGS a total saving of about Rs. 3000 crores for 2014-15 has been assessed in 2015-16 and saving of Rs. 4,633 to total of Rs. 7,633 crores. However in response to a RTI dated November 11, 2016 on how much Aadhaar contributed to this savings and the methodology used to arrive at the assessment did not provide any answers with certainty. Since the Respondent has neither published any methodology used to estimate the savings claimed nor has provided data points used in the methodology, it renders the above claim

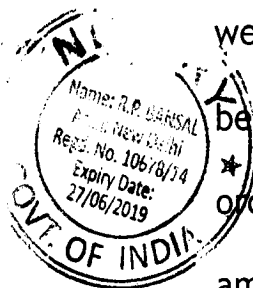


unverifiable. Petitioner reiterates its submissions, made above, that the Respondent has all the resources and facilities at its disposal to publish transparent and open findings on this subject, where the data, the methodology, and the results, all ought to be open to public scrutiny. A copy of the reply to the RTI dated November 4, 2016 is annexed hereto and is marked as ANNEXURE - P50.

**NO ENDORSEMENT TO AADHAAR BY THIS HON'BLE COURT:**

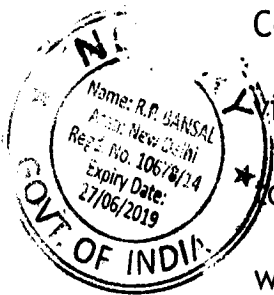
7. That the Respondent has further sought to mislead this Court in stating (in paras 4(a) through 4(i) of the counter-affidavit) that the utility or benefits of the Aadhaar project have been endorsed by this Hon'ble Court.

a. It is herein pointed out that most of the orders cited in the said paragraphs viz. (2011) 14 SCC 331, (2013) 2 SCC 705, (2010) 13 SCC 45, (2013) 4 SCC 368 were passed before the interim orders of this Hon'ble Court such as those from 11.08.2015 and 15.10.2015 mentioned above. Further, it is to be pointed out that in all of those cases, there has been no application of judicial mind on the vires of the project and nor were any facts relating to the working of the project brought before the Court and therefore any attempt to paint those orders as an endorsement or a finding of the Court manifestly amounts to misrepresentation and attempt to mislead. More particularly, the extensive reliance placed on the PUCL cases on the Wadhwa Committee recommendations on end-to-end



computerisation of the public distribution scheme is also clearly misplaced, as it is part of this Hon'ble Court's record that the committee headed by Justice (Retd.) D.P Wadhwa did not go into any kind of fact finding mission qua Aadhaar and therefore the recommendations therein cannot be said to be having made with due application of mind.

- b. Further, a close reading of the above orders neither in full, nor as extracted by the Respondents disclose any distinct finding of fact in relation to the benefits of Aadhaar project, let alone finding on law, its vires.
- c. Further, the alleged endorsement of the Aadhaar project by this Court in **LOKNITI FOUNDATION V. UNION OF INDIA** bearing **W.P. (C) No. 607 of 2016** vide order dated 06.02.2016, although was passed after the said interim orders dated 11.08.2015 and 15.10.2105, it is pertinent to point out that the same is actually a dismissal order that does not create any finding of fact or law in relation to Aadhaar project. In this respect, it must also be pointed out that the Respondents failed to bring to the notice of the Hon'ble Court, in that case, the pending dispute in relation to the vires of the Aadhaar project before an undertaking was given to the Court to use Aadhaar for mobile subscriber verification, which incidentally was disallowed by this Hon'ble Court vide the Order dated 15.10.2015 ( Telecom Regulatory Authority of



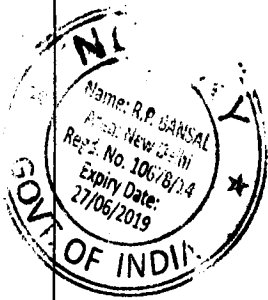
India was one of the applicants before the Hon'ble Court to modify the order dated 11.08.2015 to allow subscriber verification through Aadhaar. The same was not allowed and only four other schemes were allowed in the order dated 15.10.2015.

**MISPLACED COMPARISON TO OTHER IDENTITY PROGRAMMES SUCH AS SOCIAL SECURITY NUMBER/SSN:**

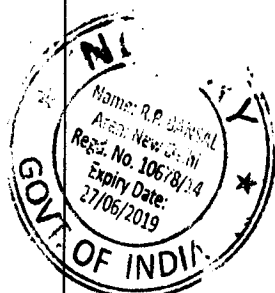
8. That the Respondent has further placed heavy reliance on what it terms, “practice in other democracies” making ostensible reference to the Social Security Number (SSN) in the United States which is erroneous for the following reasons:

a. The SSN and Aadhaar are not comparable and have distinct features and uses as illustrated by the table below:

ASPECT OF COMPARISON	AADHAAR	SOCIAL SECURITY NUMBER
Biometrics:	Collects all 10 fingerprints, both iris scans and stores them on a centralised database. The Aadhaar Act allows the UIDAI to collect any other biometric information by simply amending delegated legislation (s. 2(g))	No biometrics. Not even a photograph.

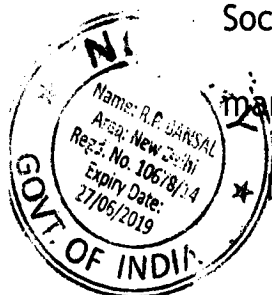


Privacy Statute:	<p>No privacy law in India. The lack of an independent privacy/data regulator has a huge impact in the context of recent data leaks by government portals and the failure of UIDAI to initiate any action despite violations of the Aadhaar Act. The Aadhaar Act has deficient privacy protections, an illusory adjudication process through a call center, and retains all powers to initiate criminal complaints. There are no effective safeguards present under the Aadhaar Act.</p>	<p>Regulated by the Privacy Act 1974, as well as several state specific statutes</p>
Unique Identifier:	<p>Aadhaar is categorically projected as a unique identifier - "Aadhaar system provides single source online identity verification across the country for the residents. Once residents enrol, they can use the Aadhaar number to authenticate and establish their identity multiple times using electronic means."</p>	<p>Successive US governments have cautioned against excessive use of the SSN to prevent it from becoming the default unique identifier (see above).</p>



	(UIDAI website, 2017)	
Identity Theft:	Instances of personal data being misused and mismanaged are becoming increasingly common. The ubiquitous use of Aadhaar as a unique identifier will only make this worse.	Widespread use has led to extensive identity theft. Various committees and reports have recommended that SSN not be used extensively or displayed publicly.
Authentication:	Centralised, online system. Separate storage of authentication logs and meta data against every resident's record, creating a detailed profile.	Not an 'online' system with real-time authentication. Does not store authentication logs /no metadata collected every time the SSN is used.

The Petitioner in addition to this table has also for the convenience of this Hon'ble Court created a background note on the Social Security Number which is separately annexed hereto and is marked as ANNEXURE P51.



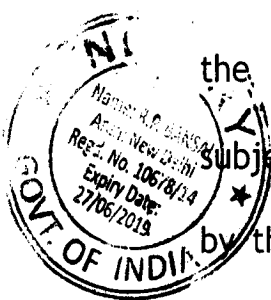
b. That further the Respondent fails to point out that a similar biometric national ID program was repealed due to concerns of privacy, surveillance and costs in the United Kingdom by

way of the Identity Documents Act, 2010 which repealed the Identity Cards Act 2006 on 21 January 2011 (making all ID cards invalid) and mandated the destruction of all data on the National Identity Register by 21 February 2011. A copy of the Identity Documents Act, 2010 is annexed hereto and is marked as ANNEXURE P52.

The Petitioners humbly submit that Respondent's reference to "practices in other democracies" actually contravenes its own case, since these other democracies have expressly considered - and rejected - having national databases based on biometric authentication.

#### THE RIGHT TO IDENTITY vs. POWER TO IDENTIFY

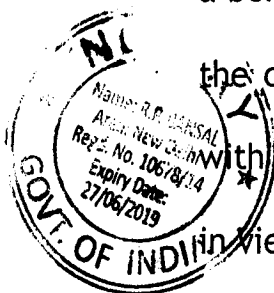
9. That the Respondents' attempt to advocate the Aadhaar project as a project in furtherance of fundamental rights and particularly 'the right to identity', as enshrined in Article 21, is clearly a result of a misconception of what is not only the right to identity but also of what is a right *per se*. It is indeed welcome that the Union of India has admitted before this Hon'ble Court the existence of the citizens' right to identity and it forming part of the fundamental right under Article 21, a privilege that the Respondents have denied to an arguably more established right in the right to privacy. However, it must be pointed out herein that what Aadhaar project does is actually anti-thetical to the concept of the right to identity inasmuch as it makes identity subject to the exercise and manner of exercise of the *power* to identify by the authority in the Unique Identification Authority of India. The contrast between a 'right' and a 'liability' that arises out of being subject to another person's power is known clearly in law.





10. Further, the attempt to portray the Aadhaar project as being in furtherance of Part IV of the Constitution is contradicted by the Respondents' claims elsewhere in the counter-affidavit. In this relation, it is to be pointed out that while figures of exclusion achieved because of Aadhaar have been put forward emphatically, euphemistically calling such exclusion as savings, there is absolutely no evidence that has been put forward either in the counter-affidavit or, to the best of the Deponent's knowledge, anywhere else in public domain, showing how such savings have been deployed to further the social welfare goals in Part IV of the Constitution.

11. The Petitioners humbly reiterate that the irreversibility of biometric collection creates an overwhelming necessity for an interim stay in the present proceedings. Serious concerns about the compatibility of the Aadhaar Act have been raised in the pending proceedings before the Constitution Bench, and the seriousness of the issue has been recognised by this Hon'ble Court in its order dated 11th August 2015, when it referred the matter to a larger bench. Indeed, the Constitution itself contemplates that only matters involving a "*substantial question of law*" with respect to the interpretation of the Constitution be heard by a bench of five judges or more. In view of the undoubted seriousness of the constitutional questions that are pending before the larger bench, with the potential to impact every single one of 1.36 billion Indians, and in view of the fact that biometric collection is an irreversible process, it is respectfully reiterated that this is a fit case for a stay pending final resolution of the dispute between the parties.



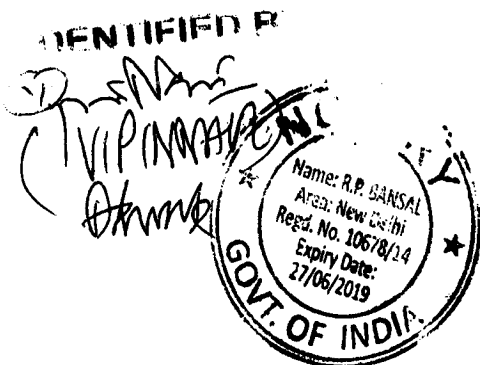
12. The Petitioners herein have limited their rejoinder to issues of fact and law which merited comment and seek leave of the court to rely substantially on the averments contained in the writ petition. It is humbly reiterated that Aadhaar is an insecure, unreliable, unnecessary and inappropriate technology project which is being foisted with coercion on the most vulnerable section of Indians and in many ways, *inter alia*, deny their rights under Articles 14, 19 and 21 of the Constitution of India.

*Rajiv Kumar Sin*  
DEPONENT

VERIFICATION:

I, the deponent above-named do hereby verify that the contents of this rejoinder affidavit are true and correct to the best of my knowledge and belief. Nothing material has been concealed or material concealed therefrom, and that submissions on law have been made under legal advice.

Verified at New Delhi on this the 24<sup>th</sup> day of June, 2017.



*Rajiv Kumar Sin*  
DEPONENT

ATTESTED

Notary Public, Delhi  
Govt. of India  
Regd. No. 10678/14

21/06/17

ITEM NO.MM

COURT NO.1

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Writ Petition (Civil) No. 342/2017

SHANTHA SINHA AND ANR.

Petitioner(s)

VERSUS

UNION OF INDIA AND ANR.

Respondent(s)

Date : 12/05/2017 This petition was mentioned today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE KURIAN JOSEPH  
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN  
HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE S. ABDUL NAZEER

For Petitioner(s)

Mr. Shyam Divan, Sr. Adv.  
Mr. P. B. Suresh, Adv.  
Mr. Udayaditya Banerjee, Adv.

For Respondent(s)

Mr. Ranjit Kumar, SG.  
Mr. Zoheb Hossain, Adv.UPON hearing the counsel the Court made the following  
O R D E RList before a Division Bench of two Hon'ble Judges on  
17.05.2017, to consider the interim prayers made in the instant  
writ petition.(Renuka Sadana)  
Assistant Registrar(Parveen Kumar)  
AR-cum-PS

ITEM NO.1

COURT NO.5

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Writ Petition (Civil) No.342/2017

SHANTHA SINHA AND ANR.

Petitioner(s)

VERSUS

UNION OF INDIA AND ANR.

Respondent(s)

(with appln.(s) for interim relief and office report)

Date : 19/05/2017 This petition was called on for  
hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE MR. JUSTICE NAVIN SINHA

(VACATION BENCH)

For Petitioner(s)

Mr. Shyam Divan, Sr. Adv.  
Mr. Vipin Nair, Adv.  
Mr. P.B. Suresh, Adv.  
Mr. Udayaditya Banerjee, Adv.  
Mr. S. Prasanna, Adv.  
Ms. Samiksha Godiyal, Adv.  
Mr. Abhay Pratap Singh, Adv.  
Mr. Govind Manoharan, Adv.

For Respondent(s)

Mr. Mukul Rohatgi, AG  
Ms. Pinky Anand, ASG  
Mr. A.N.S. Nadkarni, ASG  
Mr. Abhinav Mukherjee, Adv.  
Mr. Ritesh Kumar, Adv.

Signature Not Verified  
Digitally signed by  
ASHOK RAJ SINGH  
Date: 2014.05.22  
11:27:12 IST  
Reason:

Firstly, that similar reliefs were claimed in another Writ Petition No.797 of 2016 which were not granted though pressed and that the petitioner therein subsequently filed interim application on 11.03.2017 but did not take steps to get the same listed before the Court for reasons best known to him. He further submits that the nature of interim reliefs sought, ought to be considered by the Constitution Bench as was the case while considering the application for modification filed by Union of India in W.P. (C) No.494/2012, vide order dated 15.10.2015. Additionally, he submits that the Division Bench on 09.05.2017 issued rule nisi and had observed that this writ petition be tagged along with W.P. (Civil) No. 494/2012, which is already slated to be heard before the Constitution Bench.

During the course of hearing our attention was invited to the fact that the application filed in other pending Writ Petition (C) No.797/2016, involve similar issues as will be considered in the present application

for interim relief. If that is so, in our considered opinion it is appropriate that all the applications involving overlapping issues are heard together analogously to avoid multiplicity of hearing on the same subject matter.

As a result, we defer the hearing of this matter with a direction to list I.A. No.4 and 5 in W.P. No.797/2016 and other applications in the companion writ petition(s) if any, for grant of interim relief. We accede to the request of the learned Attorney General to permit Union of India to file counter affidavit to oppose the grant of interim relief. That be filed within three weeks hence. Rejoinder affidavit, if any, be filed within one week thereafter.

By consent, we list this matter on 27<sup>th</sup> June, 2017 subject to the availability of the Bench, on which date all aspects would be considered appropriately.

Ashok Raj Singh  
(Court Master)

(Mala Kumari Sharma)  
(Court Master)

# Who Is Opposing the Aadhaar Project?

thewire.in 14404-367-annexure-proposition-06-06-2017

By Usha Ramanathan

ANNEXURE P-39 06/06/2017

37

**Proponents of Aadhaar have used several derogatory names for those raising questions about the project. But what motivated people to challenge the government's plan in the first place?**

*This is the fourth in a series of articles on the UID project that Usha Ramanathan will be writing for The Wire. Read the first part [here](#), the second part [here](#) and the third part [here](#).*

The proponents of the unique identification (UID) project are angry and in a mood to attack detractors. Nandan Nilekani, the brains behind the project, has many names for them – all delivered pejoratively, of course: Khan Market liberals, JNU types, privacy-wallas who have colonised their minds with Western thought and Goebbelsian liars. He has been open about his contempt for everything happening in India: “In India, half are fake...fake...Fake is the operative word, right?” And, in another interview, “In India, you know, everything is a racket” and “every scheme is a scam” (as the interviewer, Vir Sanghvi, pertly observed, “except Aadhaar”). The last one was while talking about why children should have a UID number to get their mid-day meal in government schools.

Interestingly, all these adjectives are reserved for the hoi polloi. There isn't a word that he breathes about the scams where the politically powerful and the corporate leadership have been caught with their hand – wrist and elbow – in the till. No Satyam, no 2G, no Commonwealth Games, no Bellary Brothers. No Vyapam, where witnesses are falling like ninepins, except they are falling dead.

iSPIRT, which presents itself as a software product industry roundtable, and of which Nilekani is the mentor, actually had a team that they named ‘Sudham’ allegedly meant to troll anti-UID critics. They had to shut it down after iSPIRT's convener Sharad Sharma got caught operating Twitter handles using an alias to do some vicious trolling. In that time, they had moved from the relatively mildly contemptuous references about “Lutyens armchair folks (who) have never built anything in their lives” to “JNU-types” to more aggressive posturing and name calling such as “ISI stooge” and talking about the “drivel that comes from either an ignoramus or a malicious mind”. (Sanjay Jain, who has since taken charge in iSPIRT, reportedly told *Economic Times* that Sudham was set up in late December 2016 to “dispel myths” about Aadhaar and India Stack.)

The most recent of this was when Ram Sewak Sharma, chief of the Telecom Regulatory

Authority of India who was earlier the director general of the UIDAI, spoke to the *Indian Express* and accused those questioning the UID of launching “motivated campaigns”, apparently to serve the data collection interests of various multinational companies. The immediate provocation was the flooding of the internet with data from leaking departments and ministries, containing information including mobile phone numbers, bank details and UID numbers, to be seen or downloaded. In some, a slight adjustment in the URL was enough to make the database accessible. The problem for Ram Sewak was not the leak. It was the embarrassment that was caused by the leaks being exposed. So it was not those who were leaking the data that were hauled up, but the researchers who were threatened. That is how the provision in the Aadhaar Act 2016, which leaves it to the UIDAI to decide who to pursue and about whom to complain, is being used.

When Sharad was forced into contrition and he made a public apology (for allowing the trolling, but not owning up to the trolling he had done), Nilekani tweeted a “Bravo”. That is how this game is played, it seems. While those opposing the UID are subjected to thinly-veiled intimidation, the India Stack “volunteers” (a word that is going to need some serious interrogation) are hurrah-ed for apologising (when found out) for nasty trolling.

And what motivated them to challenge the project, in court and in other public spaces? There has been plenty of writing by Reetika Khera, Jean Dreze, Gopal Krishna, Praveen Dalal, Himanshu, Ramkumar, Kiran Jonnalagadda, Sunil Abraham, and there was recently Pratap Bhanu Mehta’s dramatic change of opinion.

Moneylife has hosted articles and talks, and Ram Krishnaswamy’s blog is a storehouse of what has been in the media since 2010.

But these are not the exception. There are many others. And here are some of them.”

**Shantha Sinha** set up the MV Foundation, which works for the eradication of child labour. She is a former chairperson of the National Commission for the Protection of the Rights of Children. According to her,

*“The most effective way of tracking child labourers and out of school children is at the level of gram panchayats in rural areas and wards in urban areas where children are not statistics and numbers but real names and persons whose rights are to be protected and with involvement of community. A UID... can at best give a number to the child but not help rescue the child or restore to her rights. Nor does it strengthen the capacities of public institutions to serve children. Further, it could also lead to stigmatising the child for good as an out-of-school child or child labourer.*



*There can be no short cuts in the process of tracking children.*

*Deserving children have been denied admission into residential schools for want of Aadhaar. Among many others, there is the case of a tribal boy who fled from the Maoist area in Chattisgarh and joined school in Bhadrachalam in Telengana. He shifted from Hindi medium to Telugu medium, made it into the residential school after intense competition – and then was denied admission because he has no Aadhaar number! He lost one year, never procured an Aadhaar – how could he? He has no documents in Telengana. He then began to work as a construction labourer, and his fate is now sealed. While the Aadhaar card was said to be inclusive, in practice it has been exactly the opposite. It has deprived innumerable children of their legitimate access to their education. Exclusion is hitting the mid-day meal too!”*

**Bezwada Wilson** has spent his adult life working for the eradication of the practice of manual scavenging. In 2010, Wilson was one of 17 concerned citizens, which included Justice V.R. Krishna Iyer, Romila Thapar and S.R. Sankaran among others, who issued a “statement of concern” about the project. He says,

*“We want to bury this identity of having been manual scavengers. Coming out of untouchability is not easy. Oppressive identities are to be cast off, not documented and kept forever. What we need is a technology that will destroy this demeaning work and finish off this identity. Instead, what this is doing is branding us forever.*

*This project was never about plugging leakages in subsidies. Look where they have taken it. First, they said it was only for welfare and then they have kept on expanding it into all kinds of areas. All this time, the government has been waiving corporate loans worth Rs 1.14 lakh crore! How can you expect citizens to trust this? “This project is making nonsense out of choice, consent, even citizenship. It has to be understood that the people are not slaves.”*

**Colonel Mathew Thomas**, who retired after serving ten years in the army and another ten years in defence research, says,

*"Everyone has a motivation for what they do or say. In the 1970s, in the early years of computers I used them (computers) for the solution of scientific and business problems; specifically, Finite Element Analysis for structural problems on missile components and production planning and control systems for missile manufacture. The experience was invaluable. I learned the hard way what computers and IT could be used for and where these are useless. Most importantly, I understood two things: one, that physical ground reality must be organised to match proposed computer solutions before the solution yields results. And, two, misapplication of IT systems to problems where they cannot be used is dangerous as it fosters a false sense of resolving issues.*

*As soon as the project was announced in January 2009, my first thoughts were, 'How in heaven's name, are they going to do this?' So, I wrote to the prime minister and Nandan Nilekani. I received no replies. As I continued to study, research and obtain information on the scheme, I found an organised pattern of untruth and obfuscation. The government then, and now, and those managing the project have been less than honest with us; some in government out of ignorance or misplaced faith, and some wilfully, for reasons that remain unknown. Why do you think the UK scrapped the National ID card and the US is yet to implement its Real ID Act after eleven years? Do you know that the UIDAI says, in its contracts with companies that are handling the data, "No assurance can be provided as to the accuracy of the demographic data in its database"? Do you understand what this means?"*

**Major General S.G. Vombatkere (retd)** has an enduring respect for the liberties which the constitution recognises. His keenness to contest the unconstitutionality of the project derives from what he saw of the making of constitutional history.

*"I remember my father and recall a personal debt to the constitution of India and the Supreme Court of India. To elaborate, my father, Vombatkere Gurunandan Row (better known as V.G. Row, barrister-at-law), was general secretary of a society named People's Education Society and was publishing a newsletter from the society. People's Education Society was declared as an unlawful association under extant criminal law by the Government of Madras [The State of Madras vs V.G.Row].*

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*My father fought the charge in the courts of law up to the Supreme Court before a five-judge bench including the CJI, and on March 31, 1952, won his case on the basis of the freedom of expression and freedom of association, which the Constitution guarantees every citizen. Indeed years later, on 16 October 2008, Justice K.Kannan (Judge, Punjab & Haryana High Court) noted thus: "The triad of fundamental freedoms of expression, movement and association found the first affirmation in A.K.Gopalan and V.G.Row, the names that are etched into constitutional history via the Madras High Court".*

*If my father had not fought and won his freedom on the basis of the constitution of India, he would have been imprisoned, changing everything in a big way for my mother, my brother and me way back in 1952, when I was still a child. That is the debt I and my family owe to the constitution of India, and to the Supreme Court of India which recognised and enforced its freedoms.*

*Long live the Republic of India, and may the values it enshrines always remain valid in Indian society!"*

**J.T. Dsouza** is a biometrics expert who demonstrated in the Planning Commission how ridiculously simple it is to fake a fingerprint. That was on September 30, 2011, in the presence of representatives from the UIDAI and Natgrid.

*"My objection is to the hegemony of the state, where the state treats its citizen as subjects to be subjugated. Identity projects, with control residing in a centrally controlled repository have been repeatedly misused in the past. Nazi Germany and Kosovo (with the ideas of 'identity cleansing' and 'archival cleansing') in more recent times are examples.*

*The intrusive bullying and abuse of power by the state that the project has already witnessed is testimony to the problems of the project.*

*My second objection about technology involves a whole panoply of reasons. One, the use of wholly untested theories as the foundation of the project. Two, intrinsic flaws of biometrics as an authentication factor. Three, vulnerabilities of centralised database to misuse, both official and inadvertent. Four, non-existent technical Infrastructure in most of our country. No matter how secure you make the central core, the nature of*

such a system makes securing the periphery impossible. This project continues to gloss over all of this at our peril."

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**Nagarjuna** is a professor at the Gnowledge lab, Homi Bhabha Centre for Science Education, at the Tata Institute of Fundamental Research. He says,

*"Centralisation of any resource will eventually go against the democratic ideals of distributed justice. Centralisation leads to single point of failure.*

*In a true democracy, we wish the state to be transparent to the people, and not vice versa. The very possibility of a certified unique identity will create multiple modes of criminal activities that never existed in the past. A certified unique identity will create more crime than reducing the crime.*

*The Aadhaar system is not built like self-reliant technology ventures like Atomic Energy or Space Research, but with commercial links with global security companies. This will make the entire country vulnerable. Considering that the Aadhaar is promoted by powerful agencies (both private and public), it shows that it serves their interests and it is not about recognising power in the people.*

*Identity is not created by birth, real social identity is developed dynamically as we live. Freedom to build or change character without coercion to other lives must be respected at any cost."*

**Anupam Saraph** is an innovator and polymath, and has been an advisor to government on technology and on identity systems. He asks,

*"What is the motivation of the child who sees the emperor's new robes don't exist? What will the child do if the emperor insists the robes exist?"*

*Having experience in building identity solutions, and having developed logical frameworks for identity documents, it is plain that the UID is merely a number that is assigned to unverified and unaudited data submitted by private enrolees – 34,000 of who have been suspended by the UIDAI. This means that there can be millions of ghosts in the UIDAI database.*

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*It is fairly obvious that any bank accounts opened solely on the basis of such a number can allow "ghosts" to create and operate "mule" accounts. Furthermore, even while the RBI's own system of digital money transfers has been used by government for over a decade, the sudden unexplained switch to a non-government payment system based on Aadhaar that facilitates money laundering by destroying the money trail raises serious questions that need investigation.*

*The UID cannot serve as the basis for identification of any individual in an impartially arbitrable way. This means using it to build governance, national security, digital economy and anything at all is plainly absurd and, because it will destroy lives and the nation, inhuman. If I turn a blind eye to what is so obvious I would be no less guilty of the crimes than the perpetrators of the UID.*

*Should anyone who sees absurdities, illegalities, anti-national and criminal intent need any further motivation to expose it?"*

**Vickram Crishna** is an engineer who, like most others featured here, has challenged the project in court.

*"My problem with the technology is, in most instances, that commercial considerations trump the priority of meeting incredibly high standards, and this can be seen in the design choices at every stage. The manner of implementation of this system, however, is fully dependent upon a very high quality of seamless connectivity across the country, which in itself demands a very high level and availability of specialised labour, apart from electrical power and stability. We are some years away from approaching such a situation and the present distribution of quality of service is heavily weighted in favour of major cities, and against rural areas in general.*

*It is attractive to initially bar all failures, and claim reduced expenditure as savings, and this is what is being observed now.*

*I have a problem with the understanding of 'social contract', as expressed in the implementation of the UID scheme. The constitution, as I read it, from its opening phrase of "We, the People..." was intended to lead to a state that is primarily citizen-facing. However, the justification for identity documents of one kind and another is invariably found to be the need to*

address failures in the state's ability to identify citizens, and not any failures of the citizens themselves, as part of the social contract expressed as the constitution."

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**Kalyani Menon-Sen** is a feminist researcher of 25 years' standing. She says,

"Many years of working with poor women has made me keenly aware of the many barriers they face in accessing their entitlements. Proving their identity is not the major barrier. The real corruption is in the system. This issue of systemic exclusions has been at the centre of my work. Over these last seven years, I have more and more first-hand evidence that UID has not improved service delivery, whether it's rations or gas cylinders or pensions. Even more worrying is the fact that Aadhaar is actually creating more exclusion, again because of systemic failures – even people with valid UIDs are unable to claim benefits because "machine kharab hai (the machine isn't working)" or fingerprints don't match or because some new rule is unearthed that they are not aware of. I think what really brought home to me that the promoters of the scheme were losing their moorings was the announcement of the Aadhaar-midday meal linkage. We have the most horrendous rates of child malnutrition, children come to school starving and for many, the school meal is the only cooked food they get that day. This is a universal provision. What is the sense in making it Aadhaar dependent?

This is true for school admissions too – it is a universal right and making it Aadhaar dependent will only help schools to exclude children whom they don't want to take – because they are poor, disabled, Muslims or Dalits. These are the exclusions that are happening and are being ignored.

I feel utterly frustrated that we invest so much attention on the GDP and completely ignore the GDI (gender development index) – shocking rates of anaemia, underage pregnancies, maternal deaths, malnutrition, violence, women's employment. Do we really need to argue about methods of calculation when the naked truth is visible to the naked eye?

So I felt I had to take a stand and do something – I was very sure that if the facts about exclusion are put before the Supreme Court, they would at least stay these notifications while examining all the other constitutional issues."

**M.K. Pai** is a software engineer and data scientist. He says,

*"I fear that Aadhaar will destroy our delicate democracy by threatening exclusion. We can already see a future where dissenters will be silenced, their bank accounts and phones disabled, and unable to travel.*

*It is profoundly ugly for any government to require its citizens to get fingerprinted, no matter how noble the objectives. My fingerprints are my property and I should not be compelled to part with them unless I am a threat to society.*

*I am a software engineer and a data scientist. My work makes me very concerned about the future if we succumb today. Frankly, I do not trust any political party with such power.*

*Privacy is important and worth fighting for."*

**The Meghalaya Peoples' Committee on Aadhaar** in a recent statement said,

*"...it is noticed and have been informed regularly that subtle ways are being used to have people enrolled with aadhaar including school children under various guises, putting people in uncomfortable situations and that the statement made by the state government's chief secretary on the matter (Shillong Times, 04/02/2017) confirms the fact. However, despite the fact that different departments and ministries of the Union government and state government, financial institutions have over and over again issued notifications, advertisements, including regular texting in mobiles, for necessity to enrol or register for aadhaar card, it is to be reiterated and reminded that enrolment for aadhaar is voluntary and so should not be coerced and intimidated by any establishment of government(s), institutions – medical, educational, financial, sports, etc. including corporate bodies.*

*...Yes, having Aadhaar card may be one of the requirements but it is not the only proof of one's identity and must remain optional and voluntary."*

**Nachiket Udupa** studied in IIT, has been part of campaigns on rural employment guarantee, food security and the right to information, and is currently involved in the marketing of sustainable foods. According to him,

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*"At an ideological level it makes profiling and tracking much, much easier than it should be. The path that they are heading down will lead to not just an Orwellian state (as in government doing complete surveillance of its citizens) but also Orwellian corporates (as in companies also knowing way more about their customers than they should). It is attacking privacy in the worst possible way.*

*At a practical level, because fingerprinting technology doesn't work well enough, it is leading to large scale exclusions and hardships for many people, especially the poor. I am particularly bothered that this will lead to slow dismantling of the various hard-won rights of the poor, such the rights to food, work, education, etc.*

*It is compulsory, and with no opt-out feature.*

*I don't like how the people behind Aadhaar think that they are holier than thou and seem to have a sense of entitlement and would like to be beyond any sort of accountability."*

**Ankita Anand** is an award-winning journalist, writer and co-founder of the street theatre group Aatish based in Delhi, and this is how she says it:

***U, I Didn't***

*I waited for the day someone would ask me my number  
Until the state did, and I smirked,  
"I know you've used that line on a billion others."*

*At that it should have left,  
But it persisted,  
Insisted it would give me one,  
If I did not have one of my own.*

*It wouldn't take no for an answer,*



And now I have fingerprints instead of handholding,  
Iris scans, while I wait to be seen,

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At least I would be safe, I tried to tell myself,  
Until yesterday, when I found myself exposed,  
Every single digit of me, up for sale as data porn.

(Anand and Udupa had to battle the system before they could register their marriage without a UID.)

**Nikhil Dey, Shankar Singh, Vineet Bhambhu , Nikhil Shenoy, Aruna Roy and others**  
work with the Mazdoor Kisan Shakti Sanghatan, and this is what they say:

*"We are activists who live amongst people in rural India and also travel to many places across the country to work with campaigns and movements to improve delivery of programmes meant for poor and marginalised communities and individuals. We believe that well designed people centric social sector programs can make a big difference in people's lives. We have also spent many years looking at policy and its impact on implementation.*

*The UID is currently one of the biggest policy initiatives where proponents of UID claim better delivery by a) ending corruption b) much greater efficiency and most importantly c) of comprehensive inclusion.*

*We are motivated by the suffering, frustration and pain we are witness to and therefore make strong comments on the UID – initially through apprehension, and, now, through experience and example.*

*It has, in fact, miserably failed on all three claims. In some ways it has made things worse. Exclusion due to the mandatory use of UID has been so high, that it should cause a comprehensive rethink for the delivery of welfare benefits. Food security rations are supposed to be delivered to 1 crore households in the state of Rajasthan. But figures have shown that at least 25-30% of these households are not able to draw their rations despite being enrolled under UID. This has meant exclusion of some of the most vulnerable people for whom the food security act was designed. In some ways, this is criminal negligence and exclusion, and this has been happening over a period of the nine months since September 2016, when*

*the options started being shut off. We have documented very serious life threatening cases of exclusion and put them up as videos on the net. (We hope these policy makers will see the videos and answer each one of the questions of the poor about who will be held accountable for the failure to enable them to access their entitlements.) Corruption has not reduced – it has only changed its stripes, and inefficiency and delay are now caused by man and machine.*

*Our own motivation is to use evidence to convince policy makers to change their policy, or to convince those whose minds are still open to refuse to allow mandatory imposition of something that has clearly failed to deliver what it promised to. It has made things worse. Whether or not anyone bothers to listen, we are motivated by the pain and frustration we witness – to keep presenting the facts.*

*The poor are speaking; only those who need to listen are not even there. In the language of the day, they are 'presenceless'."*

These are a section of the people who have been challenging the project, in court and outside it. There are many more – and they are from all parts of the country. Such as professor K. Saradmoni from Thiruvananthapuram, a very senior women's rights activist, who wrote in saying, "Please think of something to stop this." Or a retired law professor from a law research institute who wrote to say, "It is only last year that the bank asked for fingerprints verification. Earlier, just physical presence and some ID proof used to be enough. In my case, even when the requirement was not there and despite my giving life certificate (which the bank says they duly forwarded to the EPFO) my pension, so called, was stopped after December 2015. The bank did send them reminders but no result. Then came the requirement of biometrics. My fingerprints did not match but the bank was very cooperative and sent a few letters, as they say, supporting my claim. It has been quite long but no response again from the EPFO. Now the bank has given me a form, certifying my identity, and asked me to go there personally. What disturbs me is why should I be made to run around without any fault? The bank is certifying my case, I have all other documents to prove my identity, why then this stupid requirement of matching of fingerprints? The entire credibility of fingerprints to establish identity of criminals in criminology and forensic sciences has gone for a toss. It is time things and theories and fundamentals change."

*Usha Ramanathan is a legal researcher.*

# ANNEXURE P-40

## Scroll.in

### IDENTITY PROJECT

#### **Not just mid-day meals: Aadhaar made mandatory for 11 more schemes, violating Supreme Court ruling**

Disabled citizens getting scholarships and women rescued from sexual trafficking seeking job training will now have to produce UID.

by Mridula Chari , Anumeha Yadav & Shreya Roy Chowdhury

Published Mar 05, 2017 · 04:32 pm



AFP

Days after news broke of the central government mandating that children will not be served midday meals at school without Aadhaar cards from June, it turns out that five central government ministries have in the last week issued a series of 14 similar notifications for 11 schemes, including access to primary and secondary education.

In this, the central government continues to violate a Supreme Court order of October 2015 specifying that the Universal Identification Document, commonly known as Aadhaar, cannot be made mandatory for any government scheme. It can only be used as voluntary identification for five specific government programmes: public distribution scheme, National Rural Employment Guarantee Act, National Social Assistance Programme, Jan Dhan Yojana and for LPG subsidies.

No schemes of this sort are among the 14 notifications from the Ministries of Social Justice and Empowerment, Human Resource Development, Health and Family Welfare, Labour and Employment, and Women and Child Development issued since February 21.

The notifications follow a similar format: they describe the general benefits of Aadhaar, the scheme and its beneficiaries, and lay out a deadline for enrolling in Aadhaar to continue accessing these schemes. None of the notifications specify the particular benefits of Aadhaar for that particular scheme.

While most deadlines for application range from the end of March 2017 to 2018, the Labour ministry's notifications mandate beneficiaries to apply for Aadhaar by the same date on which the ministry issued the notification.

### Privacy in question

Beneficiaries of government schemes who will have to apply for an Aadhaar number and have their status logged into the Aadhaar database include immensely vulnerable groups such as children between 6 and 14 years old, women rescued from sexual trafficking, and even disabled citizens who wish to apply for or continue getting scholarships or government-funded aids and appliances.

Other beneficiaries listed in these notifications include adults who are not literate and seek skill training, health workers, aspiring women entrepreneurs and those seeking career guidance and jobs.

The notifications have also raised concerns of privacy of beneficiaries, such as women rescued from trafficking and other groups. In February, several instances of security weaknesses in Aadhaar, through leak of demographic data of children and instances of private firms illegally storing biometrics have come to light.

"This manipulation at the highest level is not good for the country and democracy," said Bezwada Wilson, National Convenor of the Safai

Karmachari Andolan and one of the petitioners in the Supreme Court case against the mandatory implementation of Aadhaar.

People from the most discriminated against communities like ragpickers and safai karmcharis do not want their identity to be revealed, Wilson noted. Pointing out the privacy issues in surrendering biometric details to the government, he added, "Tomorrow, I can become doctor or a journalist. Why should I reveal what I have done previously?"

### **Education rights 'violated'**

For education activists, making Aadhaar enrollment mandatory for accessing an umbrella scheme like the Sarva Shiksha Abhiyan is a "clear violation" of the Right to Education Act.

The Sarva Shiksha Abhiyan, funding for which is shared by the Centre and most states in a 60:40 ratio, is meant to support the implementation of Right to Education and help achieve universal elementary education. Consequently, its funds go toward a very wide range of activities including building new schools and maintaining existing ones, supplying textbooks and uniforms, paying teachers and running special training centres for out-of-school children. All children in public schools in the six-14 age-group are likely to be beneficiaries and, therefore, required to produce Aadhaar cards.

Lawyer and education activist Khagesh Jha pointed out that the act itself was created to "remove barriers to education" and has been interpreted to mean that no documents will be required for a child in the six to 14 age-group to take admission in a school. "This is violation of the fundamental right and of the Act," he said. He also added that this is the first barrier - in the shape of a required document - being introduced in schools across India. In some states, including Delhi, Aadhaar has already been made mandatory and scholarships and other amounts are transferred directly into bank accounts linked to the unique identity numbers.

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“When no document is required for enrollment, how can they ask for Aadhaar to access a scheme like SSA?” asked Ambarish Rai of the Right to Education Forum. “To get an Aadhaar card, in practice, you are asked to produce residence [and identity] proof. Many families do not have any. Landlords hesitate to endorse applications. Migrant families will be excluded in the process.”

### Signing up

There are two ways in which a resident can enrol oneself in Aadhaar: by producing two existing valid ID or, for those unable to produce such ID, by the “introducer system” through an introducer appointed by a registrar. A Right to Information query filed by *Scroll.in*, the Unique Identification Authority of India shows that till 2016, when over 105.1 crore residents had enrolled, only 8,47,366 - or 0.08% - got Aadhaar through “introducer system.” Over 99.9% had to show two pre-existing ID to obtain an Aadhaar.



GOVERNMENT OF INDIA  
Department of Electronics & Information Technology  
Unique Identification Authority of India  
TECHNOLOGY CENTRE  
Bengaluru-560092

②

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Ref: TC-UID/Admin/RTI/06/Vol XXVII/2016-2017 / 1377

Date: 28.12.2016

To

Ms. Anumeha Y  
1112, Surya Kiran Building  
KG Marg, New Delhi-110001.

Sub: Information w.r.t RTI Application of Ms. Anumeha Y - Reg  
Ref: 1. F-12013/1066-1083/2016-RTI-UIDAI dated 17.12.2016.  
2.G.14012/36/RTI/2016-UIDAI/FW dated 22.11.2016

With reference to the above RTI Query of Ms. Anumeha Y the following information is furnished.

1. Please provide year-wise break-up of expenditure of UIDAI from 2009 when UIDAI was set up till October 31, 2016. Please provide expenditure on heads such technology operations, machine and equipment, payments to every registrars in the format in which it is held by UIDAI.

Year	Expenditure
Till 2013-14	No budget head/allotment
2014-15	Rs.43681120/-
2015-16	Rs.162184434/-
2016-17	Rs.124233293/- till 31 Oct 16

No machine & equipment allotment/expenditure from Bengaluru.

2. From September 29, 2010 till October 31,2016, what is the number of aadhaar numbers generated through introducer system. Please provide state-wise breakup of the figures. Please share information in the format in which it is held by UIDAI.

Reply for point no. 2: Copy of the reply is enclosed.

If you are not satisfied with the reply you may appeal to the Appellate Authority in UIDAI, Technology Centre, Bangalore within 30days from the receipt of the letter. The address of the Appellate Authority is given below:

Shri. Sirish Choudhary, Assistant Director General & Appellate Authority  
UIDAI Technology Centre, Government of India,  
Aadhaar Complex, NTI Layout, Tatanagar, Kodigehalli, Bangalore-560092.

*Nirmala R.*  
(M.Nirmala Rani)  
ADG & CPIO

Copy to: Shri. Pramod Kumar,Dy.Director & Nodal CPIO,2<sup>nd</sup> Floor, Tower-I, Jeevan Bharati Building Connaught Circus, New Delhi-110 001.W.r.t ltr no. F-12013/1066-1083/2016-RTI-UIDAI dated 17.11.2016.

2.Shri.Sanjay Kumar,Dy.Director & CPIO,2<sup>nd</sup> Floor, Tower-I, Jeevan Bharati Building Connaught Circus, New Delhi-110 001.W.r.t ltr no. G.14012/36/RTI/2016-UIDAI/FW dated 22.11.2016.

*Nirmala R.*  
(M.Nirmala Rani)  
ADG & CPIO

INTRODUCER DATA

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State Code	State Name	Year-201	Year-2011	Year-2012	Year-2013	Year-2014	Year-2015	Year-2016	Grand Total..
01	Jammu and Kashmir	0	1	3	10	27	48	1	90
02	Himachal Pradesh	0	126	400	150	29	3213	121	4039
03	Punjab	0	1478	2313	2947	807	15111	819	23475
04	Chandigarh	0	31	59	49	28	489	12	668
05	Uttarakhand	0	116	402	194	423	9597	264	10996
06	Haryana	0	288	441	1880	632	39999	1046	44286
07	Delhi	527	45527	47612	4710	2862	14065	505	115808
08	Rajasthan	0	1036	4059	5599	2061	41154	1111	55020
09	Uttar Pradesh	0	1481	4851	2888	8869	113521	4109	135719
10	Bihar	0	270	513	833	2355	41505	1389	46865
11	Sikkim	0	66	113	20	3	8	1	211
12	Andaman and Nicobar	0	0	0	0	0	0	0	0

Sl. No.	State/Union Territory	1	2	3	4	5	6	7	8
13	Nagaland	0	1	7	17	0	8	0	33
14	Manipur	0	1	52	10	1	8	0	72
16	Tripura	0	234	276	42	0	24	1	577
17	Meghalaya	0	0	0	0	0	2	0	2
18	Assam	0	0	5	6	5	134	6	156
19	West Bengal	0	49	314	788	629	989	173	2942
20	Jharkhand	510	5196	2515	2550	304	8914	300	20289
21	Odisha	1	340	577	4141	3044	1504	492	10099
22	Chhattisgarh	0	39	112	412	1554	22975	832	25924
23	Madhya Pradesh	2	523	2383	3411	996	74191	1307	82813
24	Gujarat	0	151	610	544	437	9155	412	11309
25	Daman and Diu	0	6	6	34	0	13	1	60
26	Dadra and Nagar Haveli	0	0	8	9	8	7	2	34
27	Maharashtra	1	6460	58767	6455	1330	66432	1022	140467
28	Andhra Pradesh	9	5171	3654	2725	1171	8758	267	21755
29	Karnataka	147	1864	3665	3209	1174	23286	621	33966
30	Goa	0	19	61	17	2	51	5	155
32	Kerala	0	34	2385	232	57	35637	218	38563
33	Tamil Nadu	0	547	455	1609	362	521	368	3862
34	Puducherry	0	8	11	11	2	156	13	201
35	Andaman and Nicobar	0	0	3	0	0	1441	4	1448
36	Telangana	32	1405	1150	2281	464	10016	89	15437
Grand Total		1229	72468	137782	47783	29636	542955	15513	847366

In response to Scroll.in's RTI query, UIDAI stated 8,47,366 residents - or 0.08% - got Aadhaar through "introducer system." Over 99.9% residents had to show two pre-existing ID to obtain an Aadhaar.

Disabled children, already out of school in large numbers, will be further deterred.

"As per the last sample survey by IMRB-Social and Rural Research Institute [2015], 28% of disabled children were out of school," observed Radhika Alkazi of Astha, an organisation that works with disabled children. "There are already huge barriers to getting into school and staying on. Adding one more pre-condition is cruel."



Aadhaar number has been made mandatory for accessing a range of schemes of the Department of Empowerment of Persons with Disabilities under the Ministry of Social Justice and Empowerment, including pre and post-matric scholarships, free coaching and travel allowances. The scheme for distributing aids and appliances been added to the SSA in the case of disabled children. "Certification is already such a cumbersome process and now more people will give up along the way," said Alkazi. "The irony is, we now have a new act. While policies are being strengthened, on the ground they are being constantly undermined."

Rai suspects the process of linking the schemes is intended to help weed out "fake enrollments and beneficiaries". Till now, funds for most functions were released on the basis of enrollment reported by schools. "Now they want to track all children in that age-bracket," he added. "But this exercise is dangerous and will lead to many being excluded. Unique IDs have nothing to do with enrollment, retention or quality."

The time allowed for applying for Aadhaar is not sufficient either, felt activists. For most education or related schemes under the Ministries of Human Resource Development and Social Justice and Empowerment, the deadline is June 30. Teachers or staff-members employed under Sarva Shiksha

Abhiyan have to enroll Aadhaar up too and by June 30. "Three-and-a-half months for a country like India is nothing," said Alkazi. But beneficiaries of adult education schemes - Saakshar Bharat for skill-development and another one supporting NGOs and private organisations in the field of adult education - have till the end of the month."

Said legal scholar Dr Usha Ramanathan: "They are making it clearer and clearer that the Unique Identification project is not about inclusion or reaching one's entitlements, but coercion and exclusion. Now that they have reached children, I hope people will realise what this project is about."

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## UID: from inclusion to exclusion

SEMINAR, Issue No. 672, June 2015, available at [http://india-seminar.com/2015/672/672\\_reetika\\_khera.htm](http://india-seminar.com/2015/672/672_reetika_khera.htm)

REETIKA KHERA

AMONG the many stated goals of the Unique Identification (UID) project, which aims to provide a unique number to all residents identified by their biometric features, was to facilitate and promote inclusion into government programmes. It hoped to facilitate inclusion by providing a recognized ID to all residents and to promote inclusion through 'de-duplication' of beneficiary databases.

One of the most appealing claims of the UIDAI project was to enable inclusion of the millions of Indians into various government programmes from which they were often wrongly excluded. Any project that helps overcome the problem of exclusion from social welfare programmes is welcome, especially since these programmes can play an important role in narrowing social inequalities. A closer scrutiny shows that the UID project's initial claims were based on a basic misunderstanding of the causes for exclusion. Worse, the experience of the past five years of the project suggests that the project itself has become a source of exclusion from government programmes.

As far as the inclusion agenda of the UIDAI project is concerned, there were two important objectives: one, to facilitate inclusion by providing identification documents to all residents. In UIDAI's documents, the lack of an ID was seen as an important source of exclusion. Thus, the provision of ID documents was closely tied to improving access to government benefits. Two, the project aimed to promote inclusion by reducing corruption (especially duplication in databases). There can hardly be any

argument about the desirability of either of these two objectives.

A commonly held perception is that the lack of ID documents is very widespread. However, the UIDAI does not provide any reliable data on how many Indian residents are without ID documents. As far as I am aware, there is no reliable estimate of this even today. To get a sense of this issue, in a small survey of 2200 rural households in ten states in 2013, we asked about possession of different identity cards (such as a voter ID, ration card, NREGA job card, etc.). Between 85-95% of respondent households had one of these IDs. Just over 80% had either a bank or post office passbook. (At that time, only around 15% had aadhaar numbers.)

Even if the proportion of population without any ID is very large, there is the question of what might be the best way to remedy the situation. One option could be to launch a new ID-giving project (such as the UID project). Another option is to focus on existing ID-giving procedures: e.g., improving the birth registration system,<sup>1</sup> enhancing the accuracy of other ID databases, such as voter ID or ration cards, and then mandating that these be accepted for various purposes, such as opening bank accounts. Intriguingly, these options were never debated.

The UID project was designed to give aadhaar numbers to both categories of people: those who had no prior ID documents and those who could produce proof of ID and of residence (to get their third, an aadhaar number). To reach out to those individuals who did not have any ID documents, the UIDAI put in place an 'introducer system'. The UIDAI's own records on how many aadhaar numbers were issued through the introducer system are damning.

Out of nearly 850 million aadhaar numbers issued so far, only 0.219 million (i.e., 0.03%) have been issued to people through the introducer system.<sup>2</sup> The remaining aadhaar numbers were issued to people who already had two preexisting ID documents.

The small number of those who got aadhaar without any prior ID document could mean one of two things: that the number of people without any ID is quite small (less likely) or that the proportion of such people is large but that the UIDAI has (so far, at least) failed to reach out to them. The circularity of the ID-giving exercise and contradiction in claims versus the actual experience has received little attention so far.

Apart from the provision of ID documents, another concern for the

UID project was exclusion from government social welfare programmes such as the PDS, NREGA, social security pensions, among others. UIDAI documents suggest that they perceived the lack of identity documents to be the root cause of exclusion from government programmes.

As pointed out by Khera,<sup>3</sup> this understanding of the UIDAI is flawed. Eligibility for these programmes requires a person to satisfy the conditions of these schemes: e.g., for social security pensions such as old age or widow pensions, the elderly are required to produce proof of age and a widow will be required to produce a death certificate of her husband. A widow with, say, an aadhaar number, but without her husband's death certificate will continue to be excluded. Possession of *any* ID does not guarantee inclusion; applicants need to possess the scheme-specific document.

Further, even among those who did have these documents, a major source of exclusion - perhaps more than the lack of ID documents - is that the scale of these programmes is capped by the government. Even if a person meets the eligibility criteria and is able to produce all the necessary ID documents, she/he may not be included simply because the government has already exhausted its target coverage for that particular scheme. The cure, then, is to expand these schemes.

The only way in which the UID project could have contributed to this was by de-duplication. Here again, there are no reliable estimates of the extent of duplication in government records. In the PEEP Survey of 2013, a door-to-door verification of 3789 pensioners in ten states found only one case of duplication.<sup>4</sup>

We have seen how the UIDAI project had two important goals - provision of ID documents to everyone, and better inclusion into government programmes. While both goals are desirable, the experience so far tells a different story. On the first (providing ID documents to the ID-less), the project has achieved next to nothing so far (only 0.22 million out of nearly 830 million aadhaar numbers were issued to the ID-less). On the second, the UID project cannot do much. The UIDAI's understanding of the source of exclusion was inaccurate. The agenda of greater inclusion is better served by expanding the scope and reach of government programmes by removing the artificial caps on their coverage, which are driven by financial concerns. To some extent, this has happened over the past decade.

Having analyzed the intent of the UID project and outlined the limited extent to which it could contribute to greater

inclusion, we now look at its actual record of implementation. Perhaps to the horror of its promoters (and in ways unimaginable to them), there is now a lot of anecdotal evidence showing that the UID has become a source of *exclusion* from these programmes - the very opposite of what it set out to achieve.

Under UPA-II, following the announcement of 'direct benefit transfers' in late 2012, there was massive pressure to make aadhaar *de facto* compulsory in various government programmes involving transfer of cash - including scholarships, pensions, NREGA wages and, to an extent, even in the PDS. The idea was that cash would be transferred into bank accounts (often opened with the help of aadhaar numbers) and beneficiaries would authenticate themselves at the last mile using aadhaar-biometrics, using banking correspondents wherever required. Letters were issued by concerned ministries to states and districts asking them to enter the aadhaar number against the name of each beneficiary of these schemes (referred to as 'aadhaar-seeding'). Often the pressure took the form of imposing impossible deadlines to complete 'aadhaar-seeding' of beneficiaries.

In September 2013, the Supreme Court intervened and directed the government to ensure that benefits were not denied for lack of an aadhaar number. However, the court's message, either intentionally or unintentionally, did not adequately percolate down to the field. After the Supreme Court's interim orders (in September 2013, March 2014 and 2015), government letters have carefully avoided the use of the term 'compulsory' or 'mandatory', but between the lines the message is clear (e.g., instead of entirely removing aadhaar as a requirement, the circulars now state that those without aadhaar should be helped to enrol). Some state officials claim that the pressure is now

conveyed orally at review meetings (e.g., video conferences) that take place between the Centre and states.

Bureaucrats in favour of the aadhaar linkage maintain that its use is necessary for de-duplication of government records. They point to a reduction in the number of beneficiaries since aadhaar-seeding began as proof of duplicates who have been weeded out. On the other hand, there are field reports which suggest that at least some of the reduction in numbers is the result of a pressure to show that 100% aadhaar-seeding has been achieved. When beneficiaries of various schemes do not present their aadhaar numbers to add to the database, the response of field staff has been to simply strike off their names.

In Jharkhand, due to the pressure for aadhaar-seeding the NREGA database, job cards were cancelled for workers who did not have aadhaar numbers.<sup>5</sup> The cancellation or deletion of names from databases is the first way in which aadhaar has become a source of exclusion from NREGA. This was applicable to the PDS in Delhi where aadhaar was compulsory for new ration card holders under the National Food Security Act.<sup>6</sup> This has also happened in the case of scholarships and pensions in several states.<sup>7</sup>

In Andhra Pradesh, it has become a source of exclusion due to the errors in the aadhaar-seeding process.<sup>8</sup> The third reason why aadhaar is a source of exclusion is when biometric authentication is made compulsory but there are issues with matching biometrics. For example, if the electronic point of the sale machine at the ration shop

The unintended consequences of the UID project point to a larger concern. It is important to remind ourselves that the UID project continues to operate without any binding legal framework. (The bill prepared by the UPA-II government was rejected by the concerned standing committee.) This opens up the possibility of the project being used in unanticipated and unintended ways.<sup>10</sup> If the project is to continue, the very least that must be done immediately is to put an adequate legal framework in place in order to prevent its abuse in the future.

#### Footnotes:

1. The civil registration system has shown significant improvements over the years. According to Census estimates, in 2012, 84% of all births were registered (see [http://www.censusindia.gov.in/2011-Documents/Reg\\_formula/Level\\_Registration.pdf](http://www.censusindia.gov.in/2011-Documents/Reg_formula/Level_Registration.pdf)).
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**THE TIMES OF INDIA**

## Need internet to buy PDS rations? Go climb a tree

TNN | Mar 3, 2017, 12.43 AM IST



UDAIPUR: Buying rations in Kotra, a backward settlement around 125km from Udaipur, now requires a vital skill: tree-climbing.

At many centres here, it is a common sight to see men and women perched on tree branches, waiting for hours for their turn to get their fingerprints and biometrics verified by the PoS (point of sale) machines. That done, they climb down and walk back miles to the ration shops where they get in another queue to collect the provisions they have bought.

Instead of making life easier, the government's move to digitalise the Public Distribution System has added to the misery of residents of several backward areas, especially Kotra. There are 76 ration centres here of which 13 have very poor connectivity.

At these places, ration dealers have to climb on trees to find internet connectivity to use their PoS machines. People living in small settlements like Merpur, Chibarwadi, Malwiya Khakariya, Peepla, Bhuridebar, Beran, Palcha, Umariya, Samoli have to wait daily for hours to get their biometric verification to purchase ration items like sugar, kerosene.

"The only ration shop is many miles from our home but the ration dealer camps on a hilltop which is even far away. Sometimes, it takes 4-5 hours to find even a thin trace of internet network and only then the machine works. The earlier system was better," said Bhola Gameti, a resident.

Many houses do not have an electricity connection. There are no roads or proper health facilities. "How unwise is this of the government to implement the PoS system before ensuring proper infrastructure?" said a school teacher.

"Difficult terrain and scattered patterns of settlement, coupled with poor development status makes it difficult to deliver services and hence dozens of villages in Kotra lacks proper communication and internet facilities," claimed a government officer.

With bureaucrats looking upon Kotra as a punishment posting, delivery of services has taken a severe hit here. While the younger men migrate to surrounding areas to earn a livelihood, those left behind are the elderly, women and children.

The block is largely inhabited by two tribes — Garasiyas and Gameti — constituting 85% of the population. Most families live in scattered hutments, often on hilly areas and engage in agriculture, collection of forest produce and wage labour.

Beneficiaries have to search some higher place to get network for fingerprint verification

No network, misery in taking ration

Respondent: Sonahatu

Card holders of Lovadeeh village of Harin Panchayat of the eastern sector of the Block have to travel 1.5 to 2 km give fingerprint and collect ration. Poor labors of the village have to stop their work for one day to collect the ration. It is worth mentioning that food grains are to be distributed to the Antyodaya Cardholders and Red Cardholders only after thumb scan through hand device machine. Beneficiaries of 7 Panchayats of the eastern sector of Sanahatu were distressed as Airtel Mobile Network didn't work at all in the month of January. Though the Airtel Company has installed towers in villages like Buruhatu, Marchadeeh, Landupdeeh, Maarangkiri and Papreeda of eastern sector, they are of no use. Ration dealer Basudev Das has to travel 1.5 to 2km, in scorching summers, in search of higher ground for the network, for the whole day, to get thumb scans of the villagers. Thereafter, he goes to the ration shop to distribute ration to the beneficiaries. Villagers have demanded that there must be some alternative mechanism and network in the area without any delay.

Prabhat Khabar, 15<sup>th</sup> May 2017 e-paper.

**Misery for Ration beneficiaries of Parsodeeh Panchayat of Ketar**

**Have to go 25 km far for getting issued the slip for ration**

**Slips are issued at dealer's house itself**

**Respondent- Bhavnathpur**

Misery is being caused to ration beneficiaries of Parsodeeh panchayat of Ketar block due to the arbitrariness of Ration Dealers. Dealer asks the beneficiaries to come to his home for taking up ration through E-POS machine. Beneficiaries have to travel 25kms from Parsodeeh to Bhavnathpur for ration. According to the beneficiaries, if their thumb impression didn't match, they have to come to Bhavnathpur over and again. Beneficiaries like Bingi Devi, Vimla Devi, Maitri Devi, Reeta Devi, Saluja Kunwar, Panpati Devi, Sonpati Devi told that it takes a whole day to travel from Parsodeeh to Bhavnathpur. Besides, there is an additional expenditure of traveling and one-time meal, while they get 20-30 kg of food grains. Other beneficiaries, too, have the same problem.

**Slips are being issues on advice of MO: Dealer**

Dealer Prabhunarayan Gupta told that E-POS machine does no work in Parsodeeh. Block Distribution Officer was told about the problem. He, himself, has told to issue slip from Bhavnathpur and distribute ration at Parsodeeh.

**MO scolded by BDO**

The issue was inspected by BDO Vishal Kumar on the orders of Nagarutari SDO, who found the case genuine and scolded MO Anil Kumar. BDO said that it is wrong that beneficiaries have to come from another block to

this block for getting issued the slip for ration and he will report this to SDO.

Nai Duniya City, 29<sup>th</sup> March 2017, Bilaspur Edition

Bank Mitra service is of no use to old age people; No entry is being done in passbook for savings-withdrawals of the beneficiaries.

Old Age people have to travel 9km for Pension

Nayi Duniya City, 29 March 2017

Ambikapur: Nai Duniya Respondent

195 Pension beneficiaries of Kardana Panchayat of Batauli block are forced to scale down a hill for 9kms to reach Chirga village for getting their monthly pension. Their account was opened in Ambikapur Branch of United Bank.

Bank Mitra service is also available, but as there is no internet connectivity in Kardana village, these old villagers have to travel for so long to get done their fingerprint (biometric) verification. These pension beneficiaries, traveling 9km on the support of sticks, are also unable to reach the bank directly, as their accounts are opened in United Bank of Ambikapur, which is 55-60 km away from their home village. Under Social Services Scheme, old age men and women were given - continue to pg. 13

Comments below photo- A panchayat level meeting was called to discuss the issue of pensioners of Kardana village and a Panchayat Committee is being constituted for the purpose. Their issue would be put forward before the administration through this Committee. Efforts are also being

put by Chaupal Village Training and Research Institute to resolve this issue.

Offer for opening bank account :- The government had given an offer to the banks to open bank accounts of the beneficiaries with their bank so that their pension reach their account in time. Even private banks had shown interest in the offer made to banks, to make it easy for pensioners from inaccessible hilly areas. Bank account of old beneficiaries of Kardana village was opened by United Bank of India with certain terms and conditions and Chattar Sai was appointed as Bank Mitra, who performs fingerprint verification of beneficiaries on the biometric machine in Chirga village. Many times, beneficiaries can't access their pensions when their fingerprint didn't match. Bank Manager has asked the beneficiaries to get their passbook printed by the Bank Mitra.





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ANNEXURE P-46

# Economic Survey 2016-17

Government of India  
Ministry of Finance  
Department of Economic Affairs  
Economic Division  
January, 2017

of adults in India still do not have a bank account and are likely to be left behind. These are also likely to belong to the poorest social groups – women, SCs, STs, the ageing and the infirm – who benefit most from state-funded subsidies.

9.75 Currently, as per official records, there are 26.5 crore Jan Dhan accounts (21 percent of the population) across the country. The per capita density of these accounts is relatively high in many of the poorer states (see Figure 11) and Chhattisgarh has the highest penetration. Of the 26.5 crore Jan Dhan accounts, 57 percent are Aadhaar seeded (see Figure 12 for Aadhaar seeded accounts per capita). Some states in the North-East and Jammu and Kashmir lag behind. In terms of JAM preparedness, considerable ground has been covered rapidly, but there is quite some way to go.

9.76 While Aadhaar coverage speed has been exemplary, with over a billion Aadhaar cards being distributed, some states report authentication failures: estimates include 49 percent failure rates for Jharkhand, 6 percent for Gujarat, 5 percent for Krishna District in Andhra Pradesh and 37 percent

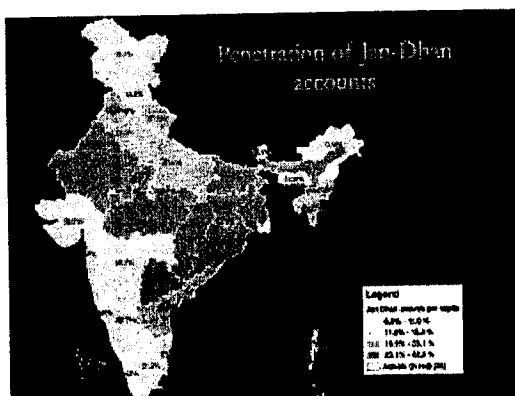
for Rajasthan<sup>41</sup>. Failure to identify genuine beneficiaries results in exclusion errors.

9.77 Another problem is leakages – while there exists, in the Indian context, rigorous evidence supporting universalization of in-kind transfers to reduce leakages, it is not clear if a universal cash transfer will necessarily result in lower leakages. Given the amount of cash that will flow through the system under the UBI and the fungible nature of money, one could imagine a perverse equilibrium where the UBI results in greater capture by corrupt actors. Indeed, it is an open question if a UBI today will necessarily work better than simply universalizing other in-kind transfers it replaces. This, once again, reiterates the role of a transparent and safe financial architecture that is accessible to all – the success of the UBI hinges on the success of JAM<sup>42</sup>.

## ii. Centre-State Negotiations

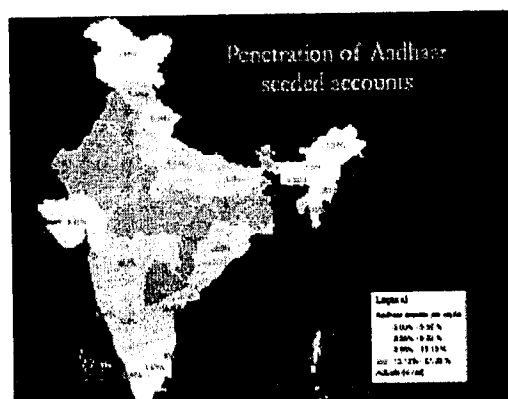
9.78 The UBI amount will be a crucial factor in ensuring the success of such a programme. A key federal question will be the centre-state share in funding of the UBI.

Figure 11. Per capita Jan Dhan accounts



Source: GOI, Survey Calculations

Figure 12. Per capita Aadhaar Seeded accounts



Source: GOI, Survey Calculations

<sup>41</sup> Yadav (2016), scroll.in.

<sup>42</sup> A UBI will, of course, not be routed only through Jan Dhan accounts. Anyone with an Aadhaar-seeded bank account would be eligible for the UBI. The focus on Jan Dhan in this chapter reflects the importance of these accounts for the poorest.

## Well done ABBA?

Aadhaar and the Public Distribution System in Hyderabad

*The Aadhaar-based Biometric Authentication system was introduced in all Public Distribution System outlets in Hyderabad between February and March 2016. A survey of 80 households (284 persons) in November finds that despite the introduction of technology-intensive authentication and payment systems, a significant number of those vulnerable and dependent on PDS for food grains are failing to realise their right to food. It is alarming that these sophisticated systems fail even in locations where connectivity and technical know-how are relatively advanced.*

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Shoshana Amielle Magnet, in her book *When Biometrics Fail* (2011), argues that biometric systems around the world have largely failed to provide their intended benefits and instead often ended up perpetuating gender, ethnic, cultural, and socio-economic inequalities.

Without heeding this warning, India's legislature directed the executive to leverage Aadhaar in Section 12 of the National Food Security Act (NFSA), 2013. Consequently, some state governments have introduced Aadhaar-based Biometric Authentication (ABBA) in the Public Distribution System (PDS), ostensibly to enhance "efficiency." However, echoing Magnet's arguments, recent evidence suggests that linking the PDS with Aadhaar is hindering efficiency. Researchers, journalists, and an Andhra Pradesh government-commissioned study have documented the disruption of welfare programmes that often follows the introduction of ABBA (Khera 2017; Drèze 2016; Ramakumar 2016; Yadav 2016; Matharu 2015).

The NFSA confers a legal right to subsidised foodgrains on "eligible households." While eligibility is a household characteristic (ration cards are made for households, not individuals), entitlements are determined on a per capita basis.<sup>1</sup> The ABBA system was introduced in all PDS outlets of the Greater Hyderabad Municipal Corporation (GHMC) in February and March 2016. Ever since, even among individuals of an eligible household (hereafter "eligible individuals"), only those with a valid Aadhaar number can become beneficiaries of the PDS. This requires their Aadhaar number to be seeded onto the PDS database and added to the household ration card. Other individuals are omitted and hence denied entitlements.<sup>2</sup>

The ABBA system in PDS outlets is built around a set of "fragile technologies" (Drèze 2016) that need to work simultaneously for successful transaction. These are:

- i. **Seeding of Aadhaar numbers:** An eligible individual can become a beneficiary and access the PDS system only if her Aadhaar number is correctly seeded onto the PDS database and added to the household ration card.
- ii. **Point of Sale (PoS) machines:** The entire process at the PDS outlet is dependent on the PoS

- machine. If it malfunctions, no transaction can be made. The first step in the process requires the dealer to enter the ration card number of the beneficiary's household onto the PoS machine.
- iii. **Internet connection:** Successful working of the PoS machine depends on internet connectivity as verification of the ration card number and the beneficiary's biometric fingerprint is carried out over the internet.
  - iv. **Remote Aadhaar servers:** Remote Aadhaar servers verify the ration card number and initiate fingerprint authentication.
  - v. **Fingerprint recognition software:** The beneficiary proves her identity by submitting to fingerprint recognition in the PoS machine. Upon verification, the PoS machine indicates that the beneficiary is genuine and that foodgrains can be distributed to her household.

The stated purpose of introducing ABBA in the PDS is to eliminate identity fraud (for example, duplicate or bogus beneficiaries) and reduce siphoning of grains by the dealers, thereby improving the delivery of welfare schemes "to the benefit of the poor." With its well-functioning connectivity, strong infrastructure, and tech-savvy government, Hyderabad offers a favourable context for ABBA. We decided to probe its workings in this seemingly best-case environment based on a household survey conducted in November 2016.

The Survey

We sought to examine the following issues:

- i. Are eligible individuals being excluded due to the introduction of ABBA?
- ii. What other issues crop up with the introduction of ABBA, barring exclusion?

A sample of 80 households ("surveyed" households) was drawn from roughly 1,300 households registered with two PDS outlets which were purposively selected for their location: one in the suburbs of Yapral and the other in Osman Gunj, less than two kilometres from the high court. We randomly selected 50 households that had successfully transacted via the ABBA system in the month of October ("successful" households) and 30 households that did not transact at the PDS in October ("no-show" households). This data was accessed from the Government of Telangana e-PDS website.

Table 1: Basic Facts

Households (HH) registered with the 2 PDS outlets of interest	1,381
Successful HH (no-show HH in brackets)	1,156 (225)
Eligible HH surveyed (individuals covered)	80 (284)
Successful HH surveyed (no-show HH surveyed)	50 (30)
Eligible individuals omitted from ration cards	34
Eligible individuals without Aadhaar card	10

No-show HH that failed transactions in October due to ABBA	8
Children not added to ration card (possibly due to lack of Aadhaar)	7
HH reporting 1 or more ABBA-related technology issue	53
HH reporting receipt of full entitlement at correct price prior to introduction of ABBA	71

Of the 80 households surveyed, 71 (89%) reported receiving full entitlements at correct prices even before the introduction of ABBA. Three of the remaining nine households reported mismatch between actual household size and the number of individuals on the ration card prior to the introduction of ABBA. The others were either unable to recall, or were newly identified eligible households. For the surveyed households at least, the PDS seemed to be working well before the introduction of ABBA.

The introduction of ABBA has, however, brought with it many complexities and problems. Although all 50 "successful" households received full entitlements at correct prices in October, eight of 30 (27%) no-show households reported failed transactions due to issues with ABBA. Further, 53 of 80 (66%) surveyed households reported glitches with one or more of the five technological components of the system (Table 1).

## Exclusion Due to Aadhaar

The identification of eligible households involves two kinds of possible errors: (i) inclusion of an ineligible household on the NFSA list ("inclusion errors"), and (ii) exclusion of an eligible household from the NFSA list ("exclusion errors"). While inclusion errors increase the financial burden of the state, exclusion errors can often leave poor families vulnerable to hunger. Since the PDS was introduced to overcome chronic hunger and malnutrition, exclusion errors should be of greater concern. Though Aadhaar is technically not an eligibility criterion, ABBA is *systematically* leading to exclusion at two levels.

First, the lack of an Aadhaar number automatically disqualifies eligible individuals from being listed in the household ration card. Among surveyed households, 12% (34 out of 284) of eligible individuals' names were missing from the ration cards, leading to a loss for the concerned household as PDS entitlements are defined in per capita terms (in Telangana, each beneficiary is entitled to 6 kg of grains per month). While there could be other reasons for missing names, 10 out of 34 reported the lack of an Aadhaar card as the reason and we suspect that seven children's names were missing due to Aadhaar (Table 1).

More than one-fifth (21%) of sample households reported Aadhaar seeding issues. Respondents had submitted all Aadhaar documents to their respective circle offices, but they found that their names were missing from the NFSA list.

Second, beneficiaries face persistent and pervasive issues related to ABBA. Among the surveyed households, 35 (70%) "successful" and 18 (60%) "no-show" households reported issues with one or more of the five technological components of the system (Table 2). A large part of our sample reported fingerprint authentication errors, Aadhaar seeding issues, and poor connectivity (discussed below). In all these cases, Aadhaar is creating discriminatory hassles and increasing transaction

costs.

Among the 30 no-show households, eight reported ABBA-related issues that led to failed transactions: five resulted from fingerprint authentication errors and the rest from Aadhaar number or seeding issues. Three households expressed disinterest in the PDS, and two provided unclear responses when asked why they did not transact.

The remaining 17 of the no-show households reported unavoidable personal reasons (for example being out of station, hospitalisation, absence of a male member whose fingerprints works, etc). Administrations may disregard these legitimate hardships as exceptional personal problems that cannot be accommodated by broad policy. Note, however, that prior to the introduction of ABBA in Hyderabad, households could collect accumulated rations for up to three months when they were unable to do so for any month. With Aadhaar leveraging, this considerate and fair approach has been discontinued. The introduction of ABBA configured PoS machines enables the District Supply Officer (DSO) to track each PDS outlets’ transactions online. At the start of each month, grains are released to the respective outlets after accounting for grains leftover from the last month. For example, if a PDS outlet must receive 100 kg of rice to disburse every month, but has 5 kg left over from last month, only 95 kg are delivered to the outlet for the next month’s disbursal. Even in institutions like the Indian Armed Forces, whose personnel receive rations in-kind, there is a pre-announced “mis-muster” date when rations missed from the previous month can be collected. Why deny PDS beneficiaries the same right?

Table 2: Issues Reported by Households at thr Time of Last ABBA Transaction

Issue Reported	Number of HH (% in brackets)	
	No-show HH	Successful HH
HH surveyed	30 (100)	50 (100)
Fingerprint authentication errors	11 (37)	20 (40)
Internet not working	4 (13)	18 (36)
PoS machine not working	0 (0)	8 (16)
Aadhaar numbers yet to be seeded	6 (20)	11 (22)
One or more ABBA technology related issue	18 (60)	35 (70)
More than 1 trip to the PDS outlet due to ABBA related errors	8 (27)	17 (34)

PoS Malfunction and Failed Fingerprint Authentication

The PoS is central to the ABBA system. While none of the no-show households reported PoS malfunction (most of them did not reach the stage of using it), eight of the successful households did. Almost 40% of the surveyed households reported persistent fingerprint authentication errors, that only specific fingers worked, or that only certain household member’s fingerprints worked.

Elderly persons and women engaged in domestic work or manual labour especially expressed distress over fingerprint authentication errors. Incidentally, early warnings of this issue were raised in early UIDAI documents (Committee on Biometrics-UIDAI 2009:4).

## **Poor Internet Connectivity**

The internet is the essential infrastructure on which the ABBA rests. Despite Hyderabad's decent network facilities, 36% of successful and 13% of no-show households reported problems with internet connectivity. This implies delays in grain disbursal and having to make more than one visit to the PDS outlet. Between one-fourth and one-third "no-show" and "successful" households respectively had to make more than one trip. Internet connectivity has frustrated not just beneficiaries but also dealers. The dealer at Yapral complained of connectivity issues every day of the week after 8 pm (a time when beneficiaries could come after work). The dealer at Osman Gunj revealed having to face internet issues for an hour or two every day. Both dealers expressed displeasure over the resultant slowing down of sales.

Poor technological construction of the machines, software, and the networks has resulted in unnecessary inconvenience and anxiety.

## **Plight of Elderly and the Disabled**

We consistently found that the introduction of the ABBA system had led to the disenfranchisement of the elderly and the disabled, as access to NFSA entitlements became contingent on their ability to access affordable transport and the effectiveness of ABBA. These dual issues impeding access have arisen because ABBA requires beneficiaries to visit the PDS outlet personally for fingerprint authentication. In the earlier set-up, the elderly and the disabled relied on family and neighbours to collect grains for them. Now, even reaching the PDS shop is no guarantee of receiving entitlements due to technical issues with fingerprint authentication.

In Yapral, K Urmila, a widow who worked as a domestic help, has not been able to access her entitlements since April 2016 after suffering from a seizure and leg injury that have left her immobile. She can neither physically access public transportation nor financially afford a private rickshaw or auto to visit the PDS outlet. Had the ABBA not been in place, she could have sent her daughter to collect her entitlements for her. Urmila is just one of many such elderly persons we met.

## **Ration Card Woes**

Lastly, we found several instances of persons still in possession of their old ration cards. Despite completing the application procedure and receiving official communication of approval via a paper slip or SMS, they had not received their new ration card and were not getting rations. They were not aware of any grievance redressal mechanism and were left hopeless in a bureaucratic limbo. Though it is not clear whether Aadhaar had anything to do with this, this is an illustration of chronic issues in the functioning of the PDS that cannot be resolved by ABBA, and from which ABBA is diverting attention.

## Conclusions

It has mattered little to successive governments that their Aadhaar endeavours are in clear violation of several Supreme Court orders that have ruled (even after the passage of the Aadhaar bill in Lok Sabha) that Aadhaar cannot be mandatory to access welfare services (Anand 2016).

Technocratic understanding of the efficiency of ABBA is ignorant of the multiple hardships that ABBA has created as well as aggravated. Among 80 surveyed households, 89% reported receiving full entitlements at correct prices even before the introduction of ABBA. In contrast, 10% of households are now excluded due to ABBA and two-thirds reported errors with one or more of its five technological components. If such is the state of affairs in urban, technologically sophisticated, and infrastructure-supported cities such as Hyderabad and Delhi (Shagun and Priya 2016), one can only imagine the magnitude of tragedies unleashed upon the beneficiaries in rural India. As Khera (2013) notes, while it is essential to deal with issues of duplication, less disruptive methods than Aadhaar such as food coupons, smart cards, and last-mile tracking can be used to produce the same effectiveness with far less administrative burden.

It is difficult to see how implementing Aadhaar has been to the "benefit of the poor" in Hyderabad. Although our sample may not be fully representative, the results suggest that the ABBA system is neither as efficient nor as dependable as it is made out to be, even in a seemingly best-case environment. A blind belief that technology will enhance efficiency seems to have ironically bred inefficiency.

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<sup>18</sup> However, under the Antyodaya Anna Yojana (AAY), the poorest of households get 35 kg of grain per month irrespective of household size.

<sup>19</sup> In some other states, such as Jharkhand, the seeding of any household member's Aadhaar number ensures entitlements for the entire household.

## POLICY BRIEF

# More Ghost Savings: Understanding the fiscal impact of India's direct transfer program — Update

ANNEXURE P-48

Shantanu Dutta  
February 2016

Since April 1, 2015, India's cooking gas subsidies have been distributed by electronic transfer through the Direct Benefit Transfer for Liquefied Petroleum Gas (LPG) scheme (known as DBTL, or PAHAL<sup>1</sup>). Under this system, which has replaced the direct sale of cooking gas cylinders at subsidized prices, households place an order for LPG with their gas distributor, receive an amount equivalent to the current (variable) subsidy amount via electronic transfer to their bank account, then pay the full unsubsidized price for the cylinder in cash on collection or delivery.

As currently designed, the DBTL scheme does not reform the size or structure of cooking gas subsidies, but changes the mechanism by which they are delivered. DBTL was introduced with the stated aim of improving the operational efficiency of the LPG subsidy system and delivering significant savings in total fiscal expenditure by removing dual pricing (thereby reducing the consumption of subsidized LPG by non-authorized users). Throughout the process of introducing DBTL there has, however, been a notable lack of official clarity regarding the scheme's actual fiscal effects.

While full-year data for FY 2015/16 is not yet available, a recent research note by IISD analyzed the claim that the introduction of the DBTL program resulted in savings of up to Rs.

12,700 crore (USD 1.9 billion) in FY 2014/15, demonstrating (through analysis of existing publicly available data) that the implementation of the scheme actually resulted in a net fiscal outlay in the most recent financial year. Following the publication of this note, the Ministry of Petroleum and Natural Gas (MoPNG) issued a press release stating that the introduction of the DBTL scheme had instead resulted in "savings" of Rs. 14,672 crore (USD 2.2bn) in FY 2014/15. This claim was widely reported, in some cases as fact, and has subsequently been publicly repeated as evidence of the efficacy of DBTL.

The calculations of the maximum "avoided" subsidy expenditure for FY 2014/15 outlined in our previous note are based on an application of the Chief Economic Advisor's (CEA's) own methodology and stated estimates for the reduction in subsidized consumption achieved by introducing DBTL (through all channels, including but not limited to the identification and blocking of irregular connections) to the actual period within which the program was implemented. While the CEA's reported estimates for the impact on final consumption overstated the actual impact of DBTL, did not disaggregate its overall effect into its various components, and were applied to a period in which the program was not in operation, this approach nevertheless represented an attempt to address the actual effect on consumption.

<sup>1</sup> PAHAL is an acronym for "Pratyaksh Hanstantrit Labh," the title given to the modified DBTL scheme introduced by the NDA government from November 2014 onwards.

By accurately applying the consumption-based methodology (and using the CEA's own estimates for the impact on consumption), our previous research note demonstrated that the maximum reduction in subsidy expenditure achievable through the implementation of DBTL in FY 2014/15 was approximately Rs. 143 crore (USD 21 million). It should be noted that this figure represents the maximum theoretical saving achievable on subsidy expenditure in FY 2014/15, through all mechanisms, *before accounting for any costs of implementation*. In the last financial year, the government allocated Rs. 200 crore (USD 30 million) for DBTL implementation costs, and the cost of commission on transfers made in FY 2014/15 amounted to at least Rs. 40 crore (USD 6 million)<sup>2</sup>—both of which represent significant underestimates relative to the actual costs incurred. Therefore the *maximum* net saving according to the government's own figures—without accurately accounting for the costs of implementation, and entirely discounting the Rs. 5,234 crore (USD 781 million) provided in permanent advances (and associated interest costs)—was approximately minus (-) Rs. 97 crore (USD 14 million).

The Ministry's subsequent press release adopts a different approach, disregarding any attempt to assess the program's actual effect on subsidized consumption, and instead uses a proxy indicator (the total number of connections), from which it extrapolates a claimed figure for subsidy savings. The release states that:

As on 1st April, 2015, there were 18.19 crore (181.9 million) registered LPG Consumers and 14.85 crore (148.5 million) active consumers implying a gap of 3.34 crore (33.4 million) consumers which are duplicate / fake / inactive accounts blocked under PAHAL Scheme and related initiatives. If we take into account the quota of 12 cylinders per consumer and the average LPG subsidy of Rs.336 [sic] per cylinder for the year 2014–15, estimated savings in LPG subsidy due to the blocking of 3.34 crore accounts work out to Rs.14,672 crore (USD 2.2 billion), during that year.<sup>3</sup>

The Ministry's latest figure rests firstly on the claim that the introduction of DBTL blocked a total of 33.4 million LPG connections *for the full financial year*. Given the stated parameters of the program this is, self-evidently, a technical impossibility. As outlined in detail in the previous research note, DBTL was only introduced nationwide in January 2015 (nine months into the financial year), and was only mandatory in a total of 8 per cent of districts for a period of six weeks (from mid-February to end-March 2015). To the extent that DBTL was responsible for the identification and blocking of any irregular connections in FY 2014/15, this effect was therefore *limited to the period in which DBTL was in operation*, which represented a small fraction of the full financial year.

In addition, publicly available information clearly demonstrates that DBTL was not responsible for identifying and blocking 33.4 million connections (or even a significant fraction of this figure) during any part of the financial year; instead, the large majority of the connections formally identified and blocked as of March 31, 2015 (and presented as blocked by DBTL in the latest press release) were blocked *prior* to the nationwide introduction of DBTL, and through methods *entirely unrelated* to DBTL or Aadhaar.

<sup>3</sup> Discounting the obvious arithmetical error in the initial press release, which appears to have been the result of a typographic error regarding the average per-cylinder subsidy figure, and was corrected without comment in a subsequent press release. It should also be noted that alongside the attribution errors outlined, the final savings estimate is further exaggerated by claiming that every "inactive" connection (wrongly) attributed to DBTL would otherwise have consumed the maximum full-year allowance of 12 cylinders per household, despite a) at least 10 million of these connections being recorded as domestic as of April 2012, and therefore consuming no subsidized LPG at all; and b) previous press releases by the MoPNG itself stating that 99 per cent of all consumers use less than the maximum cylinder allowance, and explicitly using the average consumption figure per active connection (of approximately 7–8 cylinders per household) to estimate subsidy savings from other initiatives.

<sup>2</sup> On reported payments of Rs. 3,971 crore (USD 593 million) in H2 FY 2014-15, based on the initially stipulated 1 per cent commission fee.

Despite the difference in methodology, an accurate application of the connection-based approach to estimating the impact of DBTL in FY 2014/15—as outlined below—produces a final figure similar to that calculated through the consumption-based method, reiterating that the introduction of DBTL, far from resulting in substantial savings, likely came at a net cost for the financial year.

## Accounting for the Difference Between Registered and Active Connections

As detailed in IISD's March 2014 report on reforms to LPG subsidy policy, the public sector Oil Marketing Companies (OMCs) that supply subsidized LPG have been involved in an extensive process of identifying and blocking irregular connections for several years—an initiative which preceded both DBTL and Aadhaar, and was unrelated to either. By March 2012, the OMCs had already blocked a reported 3.8 million connections—including 2.9 million multiple connections and 0.9 million LPG connections of consumers with Piped Natural Gas PNG connections—as part of an initial connection regularization drive, undertaken within the individual OMC's connection registers, from May 2010 onwards. Deduplication activities were then undertaken across OMC connection lists (a process explained in detail [here](#) and [here](#)), and by November 2012 the OMCs had reportedly identified a total of 34.6 million (3.46 crore) irregular connections (consisting of 25.3 million “same-address” connections, 1.3 million “same-address, same-name” connections, and 8 million “inactive” connections), and of these blocked a total of 13.3 million (consisting of 4 million “same-address” connections, 1.3 million “same-address, same-name” connections, and 8 million “inactive” connections).

As of November 2012, the OMCs had therefore identified (through a process unconnected to DBTL or Aadhaar) at least 26.6 million potential multiple connections, and of these blocked 5.3 million (a figure which appears to include the 2.9 million multiple connections blocked as of March 2012), with a further 21.3 million potential multiple connections undergoing a process of

verification. The total reported number of blocked connections as of November 2012 was therefore at least 14.2 million, including 8 million dormant connections, 5.3 million multiple connections, and 0.9 million PNG connections. In relation to the outstanding potential multiple connections requiring verification, an initial deadline of November 15, 2012 was then set for the submission of customer details to distributors by potential multiple connection holders, and subsequently extended to December 31, 2012. Following this deadline, any remaining potential duplicate connections for which customer information had not been received would be converted to non-subsidized connections.

By May 2013, the government stated that the OMCs had blocked 6.3 million duplicate connections, raising the total number of connections reportedly identified and blocked to at least 15.2 million (almost all of which continued to be recorded by the OMCs within total connection figures). In mid-May 2013, the government then announced that all registered connections at addresses with un-regularized multiple connections would be blocked from receiving any LPG (including non-subsidized cylinders) pending verification from June 1, 2013. It is unclear how many additional connections were blocked at this point (and how many of these remained blocked throughout FY 2014/15); however Ministry figures for registered and active connections suggest that the total number of connections recorded as “inactive” as of November 1, 2014 was approximately 2.3 crore (23 million).<sup>4</sup> In early March 2015, the Ministry then announced that the OMCs had blocked a total of 12.7 million multiple connections—a figure corresponding to roughly half of the 26.6 million potential multiple connections initially identified by list-based deduplication as of November 2012.<sup>5</sup> Publicly available data therefore indicates that the large majority of potentially irregular connections identified and blocked as of

<sup>4</sup> Full calculations available on request. In December 2014, immediately prior to DBTL's nationwide launch, the Ministry stated that there were a total of 15.24 crore (153.4 million) active connections, implying that approximately 2.36 crore (23.6 million) connections were recorded as “inactive” at this point (as the total number of registered connections as of end December 2014 was approximately 17.7 crore (177 million)).

<sup>5</sup> Of these blocked connections, just 173,638 (1.37 per cent) had been formally terminated or surrendered—demonstrating that the OMCs were identifying suspected irregular connections and blocking them from accessing subsidized LPG, but continuing to report them within total registered connections.

end FY 2014/15 had been identified prior to April 1, 2014 (i.e., before the current government was elected), through processes entirely unconnected to DBTL.

## Plugging “Leakages”: Why Aadhaar is not sudhaar

Applying the connection-based methodology adopted in the Ministry’s latest release, and using publicly available information, it is possible to calculate the approximate additionality delivered by DBTL through the identification and blocking of irregular connections in FY 2014/15 (and the maximum associated saving in subsidy expenditure). As detailed above, the large majority of potentially irregular connections identified for regularization were identified through list-based deduplication—a process unrelated to DBTL. The only mechanism for identifying and blocking potentially irregular connections that was specific to the DBTL program (as implemented) was Aadhaar-based deduplication.

Within much media reporting of the DBTL program, there has been a conflation of direct transfer with the controversial Aadhaar program. It is important to emphasize that the direct benefit transfer modality does not require any linkage with Aadhaar in order to function, and that Aadhaar was effectively irrelevant to the operation of the DBTL program, serving mainly to increase the costs of implementation (and therefore reducing any potential fiscal gain from the introduction of direct transfer). The government’s own figures have consistently demonstrated that the maximum number of potential duplicates identified in LPG databases through Aadhaar-based deduplication is approximately 1 per cent (or less) of total connections assessed<sup>6</sup>—a figure which may relate to an even smaller percentage of actual consumption.

<sup>6</sup> In its July 22 affidavit to the Supreme Court, the Ministry of Finance stated that of 8.08 crore (80.8 million) IOCL connections assessed, only 8 lakh (800,000) potential duplicates were found. In its report on DBTL, the Dhande Committee had previously stated that “[i]n the 291 districts covered under DBTL, 6.18 lakh (618,000) duplicate connections were identified out of over 40 million LPG consumers who provided their Aadhaar numbers. This deduplication could lead to an annual saving of Rs.1.931 billion (assuming a 50% duplication rate and annual consumption of 12 cylinders up to the cap).” These figures are additionally corroborated by the reported results of deduplication activities undertaken in Phase 1 districts as part of the initial introduction of DBTL, and district-level data collected as part of IISD’s field assessment of the Mysore DBTL pilot program (details available on request).

Data released by the Ministry of Finance indicates that as of April 1, 2015 there were 8.5 crore (85 million) LPG customers linked to Aadhaar—over half of whom had been linked as part of the previous implementation of DBTL by the UPA government in FY 2013/14. Assuming that approximately 3.5 crore (35 million) connections were newly linked to Aadhaar prior to April 1, 2015 due to the PAHAL Scheme, that identification and blocking of potentially irregular connections occurred almost immediately upon registration, and taking into account the staggered nature of connection registration and differential monthly per-cylinder subsidy rates, the maximum *gross* saving in subsidy expenditure (i.e., before accounting for costs) from Aadhaar-based deduplication in FY 2014/15 can therefore be estimated at approximately Rs. 12 to 14 crore (USD 1.8-2.1 million)—less than 0.1 per cent of the government’s most recent stated estimate using the connection-based methodology<sup>7</sup> (full calculations available on request).

In comparison, on the basis of approximately 140–145 million registered connections by the middle of FY 2012/13, simple list-based deduplication (as outlined here and here) reportedly identified 18–19 per cent of total connections (and over 20 per cent of total active connections, assuming around 10 million registered connections were inactive) as potentially irregular connections to be regularized or blocked. In other words, list-based deduplication was around *15 to 20 times more effective* in identifying irregular connections than the Aadhaar-based method, while imposing *less than 1 per cent* of the equivalent cost of implementation to both government and beneficiaries (and raising none of the attendant issues regarding fundamental rights).

<sup>7</sup> Note that this figure represents a small fraction of the maximum estimated (gross) impact of DBTL in FY 2014/15 generated using the consumption-based approach (and therefore incorporating all impact channels), reflecting the subsidiary role of deduplication within the overall impact of DBTL on subsidized consumption (which is primarily driven by reductions in distribution-level diversion due to the removal of dual pricing and the disruption of legitimate consumption).

## Policy Implications: Non-DBT-based reforms are potentially faster, more equitable, and more cost-effective

As outlined in our previous report on LPG subsidies and subsidy reform, there have been three principal changes to LPG subsidy policy since 2012; the introduction (and subsequent revisions) of the household cylinder cap, the implementation of connection validation and regularization measures to identify and block invalid connections, and changes to the LPG subsidy disbursement mechanism (DBTL/PAHAL). It is the connection regularization program, which in no way required the introduction of either DBTL or Aadhaar, which has overwhelmingly been responsible for the identification and removal of invalid connections and associated consumption. These connections are now being presented as having been identified and blocked due to DBTL and /or Aadhaar in FY 2014–15 (and a massively inflated notional saving calculated on this basis), when in almost all cases they were identified and blocked through processes unrelated to either initiative—in many cases several years prior to their (re)introduction. In addition, both the cylinder cap and connection regularization are simple and cost-effective initiatives to implement, therefore delivering a significant *net* fiscal saving (and, in the case of a cylinder cap, immediately improving the highly regressive distribution of the existing subsidy).

The misrepresentation of the impact of direct transfer, and of the role of the Aadhaar program within it, are extremely damaging to the effective design (and public oversight and accountability) of subsidy reform policy in India.

In the case of LPG, the path to substantive subsidy reform is clear—reinstatement of a realistic per-household cylinder cap, adjustment of the per-cylinder price-to-subsidy ratio, a crash program of access extension to *all* non-connected households, and rapid expansion and formalization of access to smaller cylinders (both subsidized and unsubsidized). In the case of other subsidized products, such as kerosene and food grains, current and previous administration's emphasis on direct transfer has similarly inhibited the introduction of potentially simpler, more equitable and more cost-effective reforms, and come at a substantial opportunity cost both to the poor and to the wider economy. The government's forthcoming budget represents a valuable opportunity to signal the adoption of a more consistently evidence-based approach to subsidy reform. A commitment to the timely and accurate provision of data is a necessary first step.

*NOTE: All figures in Indian rupees (INR) or US dollars (USD) (\$1 = Rs. 67). One crore = 10 million. One lakh = 100,000.*

### GSi POLICY BRIEF

More Ghost Savings: Understanding the fiscal impact of India's direct transfer program — Update

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GOVERNMENT OF INDIA **ANNEXURE P-49**  
MINISTRY OF CONSUMER AFFAIRS, FOOD & PUBLIC DISTRIBUTION  
DEPARTMENT OF FOOD AND PUBLIC DISTRIBUTION

LOK SABHA

STARRED QUESTION NO. 93

TO BE ANSWERED ON 22<sup>ND</sup> November, 2016

COMPUTERISATION OF PDS

\*93. SHRI KANWAR SINGH TANWAR:

SHRI SULTAN AHMED:

Will the Minister of CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION be pleased to state:

(a) the targets set and progress made in the computerization of Public Distribution System (PDS) and linkage of ration cards with Aadhaar cards, State-wise;

(b) the steps taken to incentivise the State Governments to complete the process at the earliest and to ensure installation of the point of sale machines in all the PDS centres across the country;

(c) whether duplicate and bogus ration cards were identified and eliminated during computerization and if so, the results obtained so far, State-wise including targets fixed to complete the process;

(d) whether the Government proposes to review PDS and remove/check various problems faced in its implementation including corruption, theft, pilferage and if so, the details thereof; and

(e) whether any concrete steps have been taken to strengthen the supervision and monitoring of PDS including appointment of Area officers and if so, the details and outcome/achievements thereof, Statewise?

ANSWER

MINISTER OF CONSUMER AFFAIRS, FOOD & PUBLIC DISTRIBUTION

//TRUE & TYPED COPY//



(a) to (e):

A Statement is laid on the Table of the House.

\*\*\*

STATEMENT REFERRED TO IN REPLY TO PARTS (a) TO (e) OF THE STARRED QUESTION NO. \*93 DUE FOR ANSWER ON 22.11.2016 IN LOK SABHA.

Department of Food and Public Distribution is implementing a Plan Scheme on 'End-to-end Computerization of TPDS Operations' during 12th Five Year Plan (2012-17). The scheme comprises activities namely digitization of ration cards/beneficiaries and other data bases, online allocation, computerization of supply chain management, setting up of transparency portals and grievance redressal mechanisms. A statement showing the progress made in the 'End-to-end computerization of TPDS Operations' scheme and linkage of ration cards with Aadhaar (State-wise) is enclosed as annexure-I. A total of 2.33 crore bogus/ineligible ration cards have been deleted during 2013-16. A statement showing the State-wise details is at annexure-II.

Under the National Food Security Act (NFSA), Government has approved norms for FPS dealers' margins @ Rs. 87/qtl. for 23 general category States/UTs and @ Rs. 160/qtl. for 13 special category States/UTs, which also includes reimbursement of Rs.17/qtl. for their expenditure towards purchase, operations and maintenance of Point of Sale (PoS) device at the FPS for automation. Such expenditure would be shared between Centre and State Govts. on 75:25 basis for special category States/UTs and on 50:50 basis for General category States/UTs. Out of 5,27,734 Fair Price Shops across the country 1,69,623 FPSs have been automated so far.

For establishing requisite IT infrastructure and computerization of PDS processes under the End-to-End computerization scheme, the Govt. Of India is providing funds on sharing basis, 90:10 in respect of North Eastern States and 50:50 basis with other States/UTs. Under this scheme, a National Transparency Portal for TPDS has been developed which can be accessed at <http://pdsportal.nic.in>. Citizens may also access the Portals of the respective State/UT Food and Civil Supplies Department through the links provided on the National portal.

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Online grievance redressal facility/Toll-free helpline numbers have been implemented in all States/UTs for grievance registration, tracking and redressal. The National Food Security Act (NFSA) provides for the setting up District Grievance Redressal Officers(DGRO) for effective redressal of grievances and State Food Commission (SFC) for the purpose of monitoring and review of implementation of the Act. All States/UTs have setup SFCs and DGROs. The implementation of PDS reforms is constantly monitored by the Central Govt.

\*\*\*\*

Annexure-I

**ANNEXURE REFERRED TO IN REPLY TO PARTS (a) to (e) OF THE  
STARRED QUESTION NO. 93\* DUE FOR ANSWER ON 22.11.2016 IN  
THE LOK SABHA**

**Status of End-to-End Computerization of TPDS Operations(as on 15.11.2016)**

Sl.	States/UTs	Digitization of Ration Cards	Aadhaar Seeding in RCs	Online Allocation of Foodgrains	Computerization of Supply-chain Management	Transparenc Portal	Online Grievanc Redressa
1	Andhra Pradesh	100%	100%	Implemented	Implemented	Yes	Yes
2	Andaman & Nicobar	100%	97%	Implemented	Implemented	Yes	Yes
3	Arunachal Pradesh	100%	44.5%	-	-	Yes	-
4	Assam	100%	0%	Implemented	-	Yes	Yes
5	Bihar	100%	0.13%	Implemented	Implemented	Yes	Yes
6	Chandigarh	100%	100%	NA	NA	Yes	Yes
7	Chhattisgarh	100%	100%	Implemented	Implemented	Yes	Yes
8	Dadra & Nagar Haveli	100%	89%	Implemented	Implemented	Yes	Yes
9	Daman & Diu	100%	100%	Implemented	Implemented	Yes	Yes

**//TRUE & TYPED COPY//**

10	Delhi	100%	100%	Implemented	Implemented	Yes	Yes
11	Goa	100%	88%	Implemented	Implemented	Yes	Yes
12	Gujarat	100%	88%	Implemented	Implemented	Yes	Yes
13	Haryana	100%	91%	Implemented	-	Yes	Yes
14	Himachal Pradesh	100%	96%	Implemented	Implemented	Yes	Yes
15	Jammu and Kashmir	100%	62%	Up to TSOs*	-	Yes	-
16	Jharkhand	100%	94%	Implemented	Implemented	Yes	Yes
17	Karnataka	100%	99%	Implemented	Implemented	Yes	Yes
18	Kerala	100%	98%	Implemented	-	Yes	Yes
19	Lakshadweep	100%	97%	-	NA	Yes	Yes
20	Madhya Pradesh	100%	83%	Implemented	Implemented	Yes	Yes
21	Maharashtra	100%	87%	Implemented	Implemented	Yes	Yes
22	Manipur	100%	1.28%	Partial	-	Yes	Yes
23	Meghalaya	100%	0%	-	-	Yes	Yes
24	Mizoram	100%	11.99%	-	-	Yes	Yes
25	Nagaland	100%	6.50%	-	-	Yes	Yes
26	Odisha	100%	81%	Implemented	Implemented	Yes	Yes
27	Puducherry	100%	97%	NA	NA	Yes	Yes
28	Punjab	100%	97%	Implemented	-	Yes	Yes
29	Rajasthan	100%	100%	Implemented	-	Yes	Yes
30	Sikkim	100%	70%	Implemented	-	Yes	Yes
31	Tamil Nadu	100%	80%	Implemented	Implemented	Yes	Yes
32	Telangana	100%	100%	Implemented	Implemented	Yes	Yes

Sl.	States/UTs	2013	2014	2015	2016	Total
1	Andaman & Nicobar	0	0	37	0	37
2	Andhra Pradesh	0	8,49,000	0	1,18,000	9,67,000
3	Arunachal Pradesh	13,875	993	43	0	14,911
4	Assam	0	0	0	72,746	72,746
5	Bihar	0	21,712	16,401	3,256	41,369
6	Chandigarh	0	0	0	0	0
7	Chhattisgarh	1,03,000	7,10,000	1,43,000	83,000	10,39,000
8	Dadra & Nagar Haveli	0	0	0	1,647	1,647
9	Daman & Diu	0	0	0	0	0
10	Delhi	0	0	35,056	0	35,056
11	Goa	1,782	93	1,09,145	0	1,11,020
12	Gujarat	11,073	64,079	45,833	18,189	1,39,174
13	Haryana	67,243	22,903	43,515	58,469	1,92,130
14	Himachal Pradesh	3,025	235	0	0	3,260
15	Jammu and Kashmir	0	0	0	0	0
16	Jharkhand	0	19	7,914	0	7,933
17	Karnataka	1,17,058	34,17,560	9,33,935	1,51,435	46,19,988

Updated Statement of Deleted Ration Cards

THE LOK SABHA

ANNEXURE REFERRED TO IN REPLY TO PARTS (a) to (e) OF THE  
STARRED QUESTION NO. 93\* DUE FOR ANSWER ON 22.11.2016 IN :

Annexure-II

\*\*\*

33	Tripura	100%	92.55%	Implemented	Implemented	Yes	-
34	Uttar Pradesh	100%	70%	Implemented	-	Yes	Yes
35	Uttarakhand	100%	66%	Implemented	-	Yes	Yes
36	West Bengal	100%	61%	Implemented	Implemented	Yes	Yes
		100%	70.97%	29	19	36	33

18	Kerala	0	0	0	0	0
19	Lakshadweep	0	76	872	442	1,390
20	Madhya Pradesh	0	1,313	0	1,08,123	1,09,436
21	Maharashtra	1,00,543	85,160	8,20,780	11,55,908	21,62,391
22	Manipur	0	0	0	0	0
23	Meghalaya	0	0	0	0	0
24	Mizoram	743	98	48	108	997
25	Nagaland	0	0	0	0	0
26	Odisha	0	0	0	7,61,460	7,61,460
27	Puducherry	54	17,392	9,507	1,055	28,008
28	Punjab	7,982	93,267	0	0	1,01,249
29	Rajasthan	0	0	26,329	12,97,077	13,23,406
30	Sikkim	0	0	0	4,760	4,760
31	Tamil Nadu	1,23,956	96,406	1,14,175	36,190	3,70,727
32	Telangana	3,21,372	11,75,354	1,15,044	3,27,711	19,39,481
33	Tripura	6,208	11,814	66,236	92,728	1,76,986
34	Uttar Pradesh	2,76,079	19,117	2,33,847	19,43,092	24,72,135
35	Uttarakhand	0	0	0	0	0
36	West Bengal <sup>s</sup>	27,52,498	16,77,311	21,84,152	0	66,13,961
	<b>Grand Totals</b>	<b>39,06,491</b>	<b>82,63,902</b>	<b>49,05,869</b>	<b>62,35,396</b>	<b>2,33,11,658</b>

*\*\* Cards deleted due to detection of Ghost / fraudulent / duplicate / ineligible / migration / deaths, etc. during the process of digitization, de-duplication, Aadhaar seeding in run up /implementation of NFSA*

*<sup>s</sup> West Bengal has individual Ration Cards system*

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//TRUE & TYPED COPY//

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No. K - 11018/02/2016-RE-1 (352412)

Government of India  
Ministry of Rural Development  
(MNREGA Division)

ANNEXURE P-50

Krishi Bhavan, New Delhi

Date 04.11.2016

Office Memorandum

**Subject : RTI application of Ms. Saila Sri Kambhatia dated 24.10.2016**  
**seeking information under RTI Act 2005 - regarding.**

The undersigned is directed to refer to RTI Section's O.M. No...L-12060/02/2016 RTI MNREGA (RE-VII- B ), dated 25.10.2016 on the above subject and comments of RE-I is as under :-

S.No	Questions	Answers
1	What has been the reduction in leakages due to Aadhaar to date in NREGA? Kindly provide quantifiable amount if any.	Mahatma Gandhi NREGA has been covered under Direct Benefit Transfer (DBT) and savings are in terms of increasing the efficiency and reducing delays in payments etc.
2	What is the methodology used by the Department to arrive at the assessment (qualitative and quantitative) on decrease in leakages.	

Susheela Menon

Section Officer (RE-I)

To

SO (RE-VII B ), Smt. T. Mathew.

//TRUE &amp; TYPED COPY//

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**ANNEXURE P-S)**

Background to the US Social Security Number (SSN): (A separate note submitted on behalf of the Petitioner)

The SSN is a unique nine-digit number that was created in 1936 for the purpose of tracking workers' earnings to determine their entitlement to benefits. It was initially intended for use exclusively by the US federal government. Over time, however, its use expanded to purposes unrelated to social security.

Concerned by the growing use of the SSN, the Congress passed the Privacy Act of 1974.<sup>1</sup> Section 7 of the Privacy Act<sup>2</sup> makes it **unlawful for any Federal, State or local government agency to deny to any individual any right, benefit or privilege provided by law because the individual refuses to disclose his/her SSN, unless disclosure was required by statute or regulation prior to January 1, 1975, or is required by Federal statute.**

It further requires that any government agency that asks an individual to furnish his/her SSN must inform the individual:

- whether furnishing the information is mandatory or voluntary,
- by what law or other authority the agency is requesting the number, and
- the uses that will be made of the information.]

"In enacting the Privacy Act, Congress recognized the dangers of widespread use of SSNs as universal identifiers, and enacted provisions to

<sup>1</sup> <https://www.ssa.gov/history/ssn/ssnchron.html>

<sup>2</sup> <https://secure.ssa.gov/poms.nsf/lnx/0203325005>; <https://www.gpo.gov/fdsys/pkg/USCODE-2012-title5/pdf/USCODE-2012-title5-partI-chap5-subchapII-sec552a.pdf>

limit the uses of the SSN. The Senate Committee report stated that the widespread use of SSNs as universal identifiers in the public and private sectors is "one of the most serious manifestations of privacy concerns in the Nation."<sup>3</sup> Short of prohibiting the use of the SSN outright, the provision in the Privacy Act attempts to limit the use of the number to only those purposes where there is clear legal authority to collect the SSN"<sup>4</sup>

### Features of the SSN:

- Nine digit number
- No biometrics (not even a photograph)
  - The Social Security Administrations has successfully resisted proposals for introducing biometrics to the Social Security Card.<sup>5</sup>
- While there is a master file for SSNs (known as the Numident), the Social Security Administration makes changes to it only on the receipt of updated information from the SSN holder.<sup>6</sup> Since the SSN is not meant to authenticate identity, it does not build on this database every time an individual uses the SSN (cf. Aadhaar, where the CIDR stores authentication logs for every transaction, substantially increasing the risks associated with profiling and surveillance).

### SSN and Identity Theft:

<sup>3</sup> Marc Rotenberg's Testimony before the Subcommittee of Social Security Committee on Ways and Means, US House of Representatives, March 16, 2006 [https://epic.org/privacy/ssn/mar\\_16test.pdf](https://epic.org/privacy/ssn/mar_16test.pdf); Senate Committee Report can be found here - [http://www.loc.gov/rr/frd/Military\\_Law/pdf/LH\\_privacy\\_act-1974.pdf](http://www.loc.gov/rr/frd/Military_Law/pdf/LH_privacy_act-1974.pdf)

<sup>4</sup> <https://epic.org/privacy/ssn/>

<sup>5</sup> Despite the comparisons, India's Aadhaar Project is Nothing Like America's Social Security Number, Scroll.in, <<https://scroll.in/article/823570/despite-the-comparisons-indias-aadhaar-project-is-nothing-like-americas-social-security-number>>

<sup>6</sup> <https://www.ssa.gov/policy/docs/ssb/v69n2/v69n2p55.html>



Identity theft is a major concern in the United States. Over 7% of the adult American population<sup>7</sup> has been a victim to it, and it has resulted in losses worth billions of dollars.<sup>8</sup> Several government reports have linked the increase in identity theft in the US to the widespread use of the SSN.<sup>9</sup> The LSE Identity Project Report states that the use of the tax file number in Australia has led to a similar outcome.<sup>10</sup>

As a result, the trend of extensive usage of the SSN has noticeably reversed<sup>11</sup> – “As early as December 2004, the Intelligence Reform and Terrorism Prevention Act legislation prohibited states from displaying the SSN on driver's licenses or motor vehicle registrations. In 2007, the President's Identity Theft Task Force (2007, 3) included among its SSN recommendations that “federal agencies should reduce the unnecessary use of SSNs, the most valuable commodity for an identity thief.”

On November 18, 2008, President George W. Bush issued EO 13478 rescinding the 1943 EO requiring all federal agencies to use the SSN as an identifier. Then in December, the FTC (2008) issued a plea to companies, schools, and other private entities to find better ways to authenticate identities than using the SSN. State and local entities have begun to delete SSNs on electronic versions of public records. Congress has also

<sup>7</sup> Bureau of Justice Statistics, 'Victims of Identity Theft, 2014' <[https://www.bjs.gov/content/pub/pdf/vit14\\_sum.pdf](https://www.bjs.gov/content/pub/pdf/vit14_sum.pdf)>

<sup>8</sup> Security in Numbers: SSNs and ID Theft, Federal Trade Commission, 2008 <<https://www.ftc.gov/sites/default/files/documents/reports/security-numbers-social-security-numbers-and-identity-theft-federal-trade-commission-report/p075414ssnreport.pdf>>

<sup>9</sup> Ibid, The President's Identity Theft Task Force, 2008 <<https://www.ftc.gov/sites/default/files/documents/reports/presidents-identity-theft-task-force-report/081021taskforcereport.pdf>>

<sup>10</sup> LSE Identity Project Report, 2005

<<http://www.lse.ac.uk/management/research/identityproject/identityreport.pdf>> at p. 100.

<sup>11</sup> Carolyn Puckett, The Story of the SSN (2009), <https://www.ssa.gov/policy/docs/ssb/v69n2/v69n2p55.html>

considered legislation that would require the Centers for Medicare and Medicaid Services to use an alternative to the SSN as the Medicare claim number."

The US has successfully resisted the creation of a National ID

- In 1973, the Health, Education and Welfare Secretary's Advisory Committee on Automated Personal Data Systems<sup>12</sup> – "We recommend against the adoption of any nationwide, standard, personal identification format, with or without the SSN, that would enhance the likelihood of arbitrary or uncontrolled linkage of records about people, particularly between government or government-supported automated personal data systems. What is needed is a halt to the drift toward [a standard universal identifier] and prompt action to establish safeguards providing legal sanctions against abuses of automated personal data systems."
- 1977, the Carter Administration clarified that the SSN should not become a national identity document.<sup>13</sup>
- 1981, Reagan Administration issued a press communication stating that it is 'explicitly opposed to the creation of a national identity card'.<sup>14</sup>
- Post 9/11, there was a renewed debate on national IDs with biometrics. However, the Congress ensured that the legislation

<sup>12</sup> Department of Health, Educ. & Welfare, Secretary's Advisory Comm. on Automated Personal Data Systems, *Records, Computers, and the Rights of Citizens* (July 1973), available at <http://www.epic.org/privacy/hew1973report/>.

<sup>13</sup> <https://www.ssa.gov/history/ssn/ssnchron.html>

<sup>14</sup> <https://www.ssa.gov/history/ssn/ssnchron.html>; Robert B. Cullen, *Administration Announcing Plan*, Associated Press, July 30, 1981

creating the Department of Homeland Security barred the agency from creating a national ID system.<sup>15</sup>

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<sup>15</sup> S. 1514, Homeland Security Act 2002, [https://www.dhs.gov/xlibrary/assets/hr\\_5005\\_enr.pdf](https://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf)



# Identity Documents Act 2010

## CHAPTER 40

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- 14 Commencement, extent and short title

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Schedule – Consequential amendments



# Identity Documents Act 2010

## 2010 CHAPTER 40

An Act to make provision for and in connection with the repeal of the Identity Cards Act 2006. [21st December 2010]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Repeal of Identity Cards Act 2006*

#### **1 Repeal of Identity Cards Act 2006**

- (1) The Identity Cards Act 2006 is repealed.
- (2) But—
  - (a) sections 25 and 26 of that Act (possession of false identity documents etc), and
  - (b) section 38 of that Act (verifying information provided with passport applications etc),are re-enacted by this Act (with consequential amendments and, in the case of section 38, also with minor amendments).
- (3) In addition, the amendment of section 1 of the Consular Fees Act 1980 made by section 36 of the Identity Cards Act 2006 continues to have effect subject to a consequential amendment (see paragraph 2 of the Schedule to this Act).

#### **2 Cancellation of ID cards etc**

- (1) No ID cards are to be issued by the Secretary of State at any time on or after the day on which this Act is passed.
- (2) All ID cards that are valid immediately before that day are to be treated as cancelled by the Secretary of State at the end of the period of one month beginning with that day.

- (3) As soon as reasonably practicable after that day, the Secretary of State must send a letter to every cardholder—
  - (a) informing the cardholder that the cardholder's ID card is to be treated as cancelled as mentioned in subsection (2), and
  - (b) providing the cardholder with such information about the consequences of its cancellation as the Secretary of State considers appropriate.
- (4) A letter under subsection (3) must be sent to the address recorded (at the time it is sent) in the National Identity Register as the address of the cardholder's principal place of residence in the United Kingdom.
- (5) For the purposes of this section a person is a "cardholder" if—
  - (a) an ID card has been issued to the person, and
  - (b) the ID card is valid immediately before the day on which this Act is passed.
- (6) In this section "ID card" has the same meaning as in the Identity Cards Act 2006.

### **3 Destruction of information recorded in National Identity Register**

The Secretary of State must ensure that all the information recorded in the National Identity Register is destroyed before the end of the period of two months beginning with the day on which this Act is passed.

#### *False identity documents etc*

### **4 Possession of false identity documents etc with improper intention**

- (1) It is an offence for a person ("P") with an improper intention to have in P's possession or under P's control—
  - (a) an identity document that is false and that P knows or believes to be false,
  - (b) an identity document that was improperly obtained and that P knows or believes to have been improperly obtained, or
  - (c) an identity document that relates to someone else.
- (2) Each of the following is an improper intention—
  - (a) the intention of using the document for establishing personal information about P;
  - (b) the intention of allowing or inducing another to use it for establishing, ascertaining or verifying personal information about P or anyone else.
- (3) In subsection (2)(b) the reference to P or anyone else does not include, in the case of a document within subsection (1)(c), the individual to whom it relates.
- (4) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine (or both).

### **5 Apparatus designed or adapted for the making of false identity documents etc**

- (1) It is an offence for a person ("P") with the prohibited intention to make or to have in P's possession or under P's control—

- (a) any apparatus which, to P's knowledge, is or has been specially designed or adapted for the making of false identity documents, or
  - (b) any article or material which, to P's knowledge, is or has been specially designed or adapted to be used in the making of such documents.
- (2) The prohibited intention is the intention –
  - (a) that P or another will make a false identity document, and
  - (b) that the document will be used by somebody for establishing, ascertaining or verifying personal information about a person.
- (3) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine (or both).

## **6 Possession of false identity documents etc without reasonable excuse**

- (1) It is an offence for a person ("P"), without reasonable excuse, to have in P's possession or under P's control –
  - (a) an identity document that is false,
  - (b) an identity document that was improperly obtained,
  - (c) an identity document that relates to someone else,
  - (d) any apparatus which, to P's knowledge, is or has been specially designed or adapted for the making of false identity documents, or
  - (e) any article or material which, to P's knowledge, is or has been specially designed or adapted to be used in the making of such documents.
- (2) A person guilty of an offence under this section is liable –
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both), or
  - (b) on summary conviction, to imprisonment for a term not exceeding the maximum period or a fine not exceeding the statutory maximum (or both).
- (3) In subsection (2)(b) "the maximum period" means –
  - (a) in England and Wales or Scotland, 12 months, and
  - (b) in Northern Ireland, 6 months.
- (4) In subsection (3)(a) the reference to 12 months in England and Wales is to be read, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, as a reference to 6 months.

## **7 Meaning of "identity document"**

- (1) For the purposes of sections 4 to 6 "identity document" means any document that is or purports to be –
  - (a) an immigration document,
  - (b) a United Kingdom passport (within the meaning of the Immigration Act 1971),
  - (c) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom or by or on behalf of an international organisation,
  - (d) a document that can be used (in some or all circumstances) instead of a passport,

- (e) a licence to drive a motor vehicle granted under Part 3 of the Road Traffic 1988 or under Part 2 of the Road Traffic (Northern Ireland) Order 1981, or
  - (f) a driving licence issued by or on behalf of the authorities of a country or territory outside the United Kingdom.
- (2) In subsection (1)(a) “immigration document” means —
- (a) a document used for confirming the right of a person under the EU Treaties in respect of entry or residence in the United Kingdom,
  - (b) a document that is given in exercise of immigration functions and records information about leave granted to a person to enter or to remain in the United Kingdom, or
  - (c) a registration card (within the meaning of section 26A of the Immigration Act 1971).
- (3) In subsection (2)(b) “immigration functions” means functions under the Immigration Acts (within the meaning of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004).
- (4) References in subsection (1) to the issue of a document include its renewal, replacement or re-issue (with or without modifications).
- (5) In this section “document” includes a stamp or label.
- (6) The Secretary of State may by order amend the definition of “identity document”.

## 8 Meaning of “personal information”

- (1) For the purposes of sections 4 and 5 “personal information”, in relation to an individual (“A”), means —
- (a) A’s full name,
  - (b) other names by which A is or has previously been known,
  - (c) A’s gender,
  - (d) A’s date and place of birth,
  - (e) external characteristics of A that are capable of being used for identifying A,
  - (f) the address of A’s principal place of residence in the United Kingdom,
  - (g) the address of every other place in the United Kingdom or elsewhere where A has a place of residence,
  - (h) where in the United Kingdom and elsewhere A has previously been resident,
  - (i) the times at which A was resident at different places in the United Kingdom or elsewhere,
  - (j) A’s current residential status,
  - (k) residential statuses previously held by A, and
  - (l) information about numbers allocated to A for identification purposes and about the documents (including stamps or labels) to which they relate.
- (2) In subsection (1) “residential status” means —
- (a) A’s nationality,
  - (b) A’s entitlement to remain in the United Kingdom, and



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- (c) if that entitlement derives from a grant of leave to enter or remain in the United Kingdom, the terms and conditions of that leave.

## 9 Other definitions

- (1) "Apparatus" includes any equipment, machinery or device and any wire or cable, together with any software used with it.
- (2) In relation to England and Wales and Northern Ireland, an identity document is "false" only if it is false within the meaning of Part 1 of the Forgery and Counterfeiting Act 1981 (see section 9(1)).
- (3) An identity document was "improperly obtained" if—
  - (a) false information was provided in, or in connection with, the application for its issue to the person who issued it, or
  - (b) false information was provided in, or in connection with, an application for its modification to a person entitled to modify it.
- (4) In subsection (3) —
  - (a) "false" information includes information containing any inaccuracy or omission that results in a tendency to mislead,
  - (b) "information" includes documents (including stamps and labels) and records, and
  - (c) the "issue" of a document includes its renewal, replacement or re-issue (with or without modifications).
- (5) References to the making of a false identity document include the modification of an identity document so that it becomes false.
- (6) This section applies for the purposes of sections 4 to 6.

### *Verification of information*

## 10 Verifying information provided with passport applications etc

- (1) This section applies where it appears to the Secretary of State that a person within subsection (3) may have information that could be used—
  - (a) for verifying information provided to the Secretary of State for the purposes of, or in connection with, an application for the issue of a passport, or
  - (b) for determining whether to withdraw an individual's passport.
- (2) For the purpose of making the verification or determination mentioned in subsection (1)(a) or (b), the Secretary of State may require the person within subsection (3) to provide the Secretary of State with the information by a date specified in the requirement.
- (3) The persons referred to in subsection (1) are—
  - (a) a Minister of the Crown,
  - (b) a government department,
  - (c) a Northern Ireland department,
  - (d) the Welsh Ministers,
  - (e) the Registrar General for England and Wales,
  - (f) the Registrar General of Births, Deaths and Marriages for Scotland,

- (g) the Registrar General of Births and Deaths in Northern Ireland,
  - (h) a qualifying credit reference agency, and
  - (i) any other person specified for the purposes of this section by an order made by the Secretary of State.
- (4) A credit reference agency is “qualifying” if, at the time a requirement is imposed, the agency is acting for the purposes of a contract for the provision to the Secretary of State of information that could be used as mentioned in subsection (1)(a) or (b).
- (5) A requirement imposed under this section on a qualifying credit reference agency is enforceable in civil proceedings for—
- (a) an injunction,
  - (b) in Scotland, specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
  - (c) any other appropriate remedy or relief.
- (6) The persons who may be specified under subsection (3)(i) include any person who carries out a function that—
- (a) is conferred by or under an enactment (whenever passed or made), and
  - (b) falls to be carried out on behalf of the Crown.
- (7) An order under subsection (3)(i) may provide that where a requirement is imposed under this section on the person specified in the order, the duty to comply with the requirement is enforceable as mentioned in subsection (5).
- (8) In a case within subsection (1)(a) where a passport is issued, information provided in accordance with this section must be destroyed no later than 28 days after the passport is issued.
- (9) In a case within subsection (1)(b) where a passport is not withdrawn, information provided in accordance with this section must be destroyed no later than 28 days after the determination is made not to withdraw the passport.
- (10) Subsections (8) and (9) do not apply in a case where it appears to the Secretary of State to be desirable to retain the information for the purpose of—
- (a) preventing or detecting crime, or
  - (b) apprehending or prosecuting offenders.
- (11) The Secretary of State may make payments to a person providing information in accordance with this section in respect of the provision of the information.
- (12) In this section—
- (a) “information” includes documents (including stamps and labels) and records, and
  - (b) the “issue” of a document includes its renewal, replacement or re-issue (with or without modifications).

#### *General*

### **11 Orders**

- (1) This section applies to an order under section 7(6) or 10(3)(i).
- (2) An order is to be made by statutory instrument.

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- (3) An order may be made only if a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (4) An order may contain incidental, supplemental, consequential or transitional provision.

## 12 Consequential amendments

The Schedule contains consequential amendments.

## 13 Transitional provision

- (1) The repeal and re-enactment of provisions by this Act does not affect the continuity of the law.
- (2) Any subordinate legislation or other thing which—
  - (a) has been made or done under or for the purposes of a provision repealed and re-enacted by this Act, and
  - (b) is in force or effective immediately before commencement,has effect after commencement as if made or done under or for the purposes of the corresponding provision of this Act.
- (3) Any reference (express or implied) in any enactment, instrument or document to a provision of this Act is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding provision repealed by this Act had effect, a reference to that corresponding provision.  
This subsection applies only so far as the context permits.
- (4) Any reference (express or implied) in any enactment, instrument or document to a provision repealed and re-enacted by this Act is to be read, in relation to times, circumstances or purposes in relation to which the corresponding provision of this Act has effect, as a reference or (as the context may require) as including a reference to that corresponding provision.  
This subsection applies only so far as the context permits.
- (5) Any reference to a provision repealed and re-enacted by this Act which is contained in a document made, served or issued after commencement is to be read, except so far as a contrary intention appears, as a reference or (as the context may require) as including a reference to the corresponding provision of this Act.
- (6) In this section “commencement” means the commencement of this section.
- (7) This section has effect instead of section 17(2) of the Interpretation Act 1978 (but is without prejudice to section 16 and the other provisions of that Act).

## 14 Commencement, extent and short title

- (1) Sections 2 and 3 and this section come into force on the day on which this Act is passed.
- (2) The other provisions of this Act come into force at the end of the period of one month beginning with that day.
- (3) Any amendment, repeal or revocation made by this Act has the same extent as the enactment to which it relates.

- (4) Subject to that, this Act extends to England and Wales, Scotland and Northern Ireland.
- (5) This Act may be cited as the Identity Documents Act 2010.

## SCHEDULE

Section 12

### CONSEQUENTIAL AMENDMENTS

#### *Immigration Act 1971*

- 1 In section 3(9) of the Immigration Act 1971 (proof of right of abode) –
  - (a) at the end of paragraph (b), insert “or”, and
  - (b) omit paragraphs (c) and (d).

#### *Consular Fees Act 1980*

- 2 Section 1 of the Consular Fees Act 1980 continues to have effect with the following subsections that were originally inserted by section 36 of the Identity Cards Act 2006, but, in consequence of the repeal of that Act by section 1 of this Act, with the omission of the original subsection (4A)(c) –
  - “(4A) In prescribing a fee under subsection (1) for the doing of a particular thing, Her Majesty in Council may take into account –
    - (a) the expenses that will be or have been incurred in doing that thing, both in the circumstances in relation to which the fee is prescribed and in other circumstances;
    - (b) the expenses that will be or have been incurred in doing such other things in the exercise of functions mentioned in that subsection as She thinks fit; and
    - (c) such differences between different persons in relation to whom things may be or have been done as She thinks fit.
  - (4B) The power of Her Majesty in Council under subsection (1) to prescribe fees and the power of the Secretary of State under subsection (3) to make regulations each includes power –
    - (a) to make different provision for different cases;
    - (b) to make provision subject to such exemptions and exceptions as the person exercising the power thinks fit; and
    - (c) to make such incidental, supplemental, consequential and transitional provision as that person thinks fit.
  - (4C) References in this section to expenses that will be incurred for any purpose include references to expenses that Her Majesty in Council considers are likely to be incurred for that purpose over such period as She thinks appropriate, including expenses that will only be incurred after the commencement of a particular enactment.”

#### *Football Spectators Act 1989*

- 3 The Football Spectators Act 1989 is amended as follows.
- 4 In sections 14E, 19, 21B and 21C (enforcement of banning orders etc), for “travel authorisation”, in each place, substitute “passport”.

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- 5 In section 22A(1) (interpretation), omit the definition of “travel authorisation”.

*Police and Criminal Evidence (Northern Ireland) Order 1989*

- 6 In Article 26(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (offences for which an arrest may be made without a warrant), for paragraph (q) substitute –  
“(q) an offence under section 6 of the Identity Documents Act 2010 (possession of false identity documents etc without reasonable excuse).”

*Child Support Act 1991*

- 7 (1) Section 39B of the Child Support Act 1991 (disqualification for holding or obtaining driving licence or travel authorisation) is amended as follows.  
(2) In subsection (3)(b) and (c), for “a travel authorisation” substitute “a United Kingdom passport”.  
(3) In subsection (8) –  
(a) after the definition of “relevant document” insert –  
““United Kingdom passport” has the same meaning as in the Immigration Act 1971 (see section 33(1)).”, and  
(b) omit the definition of “travel authorisation”.  
(4) In the heading, for “travel authorisation” substitute “United Kingdom passport”.

*Criminal Justice Act 1993*

- 8 In section 1(2) of the Criminal Justice Act 1993 (Group A offences in respect of which jurisdiction is extended for some purposes in relation to conduct outside England and Wales), for paragraph (ca) substitute –  
“(ca) an offence under any of sections 4 to 6 of the Identity Documents Act 2010;”.

*Criminal Justice (Northern Ireland) Order 1996*

- 9 In Article 38(2) of the Criminal Justice (Northern Ireland) Order 1996 (which makes provision in relation to conduct outside Northern Ireland corresponding to that made by section 1(2) of the Criminal Justice Act 1993), for paragraph (ca) substitute –  
“(ca) an offence under any of sections 4 to 6 of the Identity Documents Act 2010;”.

*Immigration and Asylum Act 1999*

- 10 (1) Section 31 of the Immigration and Asylum Act 1999 (defences based on Article 31(1) of the Refugee Convention) is amended as follows.  
(2) In subsection (3), for paragraph (aa) substitute –  
“(aa) section 4 or 6 of the Identity Documents Act 2010;”.

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- (3) In subsection (4), for paragraph (ba) substitute –  
“(ba) under section 4 or 6 of the Identity Documents Act 2010.”

*Freedom of Information Act 2000*

- 11 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities for the purposes of that Act), omit the entry relating to the National Identity Scheme Commissioner.

*Regulation of Investigatory Powers Act 2000*

- 12 The Regulation of Investigatory Powers Act 2000 is amended as follows.
- 13 In section 59 (functions of Intelligence Services Commissioner), omit subsection (2A).
- 14 (1) Section 65 (complaints in relation to which Tribunal has jurisdiction) is amended as follows.
- (2) In subsection (2)(b), omit “or (4A)”.
- (3) In subsection (3) –
- (a) at the end of paragraph (c), insert “or”, and
- (b) omit paragraphs (ca) and (cb) (together with the “or” at the end of paragraph (cb)).
- (4) Omit subsection (4A).

*Criminal Justice and Police Act 2001*

- 15 The Criminal Justice and Police Act 2001 is amended as follows.
- 16 (1) Section 33 (power to make travel restriction orders) is amended as follows.
- (2) In subsection (4) –
- (a) for “UK travel authorisation” substitute “UK passport”, and
- (b) for “any travel authorisation” substitute “any passport”.
- (3) In subsection (5), for “travel authorisation”, in each place, substitute “passport”.
- (4) For subsection (8) substitute –
- “(8) In this section “UK passport” means a United Kingdom passport within the meaning of the Immigration Act 1971 (see section 33(1)).”
- 17 In sections 35 and 36 (further provision in relation to travel restriction orders), for “travel authorisation”, in each place, substitute “passport”.

*Asylum and Immigration (Treatment of Claimants, etc.) Act 2004*

- 18 In section 14(2) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (powers of arrest for immigration officers), for paragraph (q) substitute –
- “(q) an offence under any of sections 4 to 6 of the Identity Documents Act 2010.”

*UK Borders Act 2007*

- 19 In section 5(6) of the UK Borders Act 2007 (registration regulations), omit the words from “; and section 16 of the Identity Cards Act 2006” to the end.

*Policing and Crime Act 2009*

- 20 In section 101(3) of the Policing and Crime Act 2009 (prohibition on importation or exportation of false identity documents etc), in the definition of “document”, for “which is a card within the meaning of the Identity Cards Act 2006 (c. 15),” substitute “in or on which information is or may be recorded.”.

*Welfare Reform Act 2009*

- 21 (1) Section 53 of the Welfare Reform Act 2009 (report on operation of travel authorisation amendments) is amended as follows.
- (2) In subsections (1), (2) and (7), for “a travel authorisation” substitute “a United Kingdom passport”.
- (3) In subsections (4), (6) and (7), for “the travel authorisation amendments” substitute “the passport amendments”.
- (4) In subsection (13) –
- (a) after the definition of “the 1991 Act” insert –
- ““the passport amendments” means the amendments of the 1991 Act made by section 51 and Schedule 5 so far as relating to the disqualification of any person for holding or obtaining a United Kingdom passport;
- “United Kingdom passport” has the same meaning as in the Immigration Act 1971 (see section 33(1)).”, and
- (b) omit the definitions of “travel authorisation” and “the travel authorisation amendments”.
- (5) In the heading, for “travel authorisation” substitute “passport”.

*Identity Cards Act 2006 (Information and Code of Practice on Penalties) Order 2009*

- 22 The Identity Cards Act 2006 (Information and Code of Practice on Penalties) Order 2009 is revoked.



*UK Borders Act 2007*

- 19 In section 5(6) of the UK Borders Act 2007 (registration regulations), omit the words from “; and section 16 of the Identity Cards Act 2006” to the end.

*Policing and Crime Act 2009*

- 20 In section 101(3) of the Policing and Crime Act 2009 (prohibition on importation or exportation of false identity documents etc), in the definition of “document”, for “which is a card within the meaning of the Identity Cards Act 2006 (c. 15),” substitute “in or on which information is or may be recorded,”.

*Welfare Reform Act 2009*

- 21 (1) Section 53 of the Welfare Reform Act 2009 (report on operation of travel authorisation amendments) is amended as follows.
- (2) In subsections (1), (2) and (7), for “a travel authorisation” substitute “a United Kingdom passport”.
- (3) In subsections (4), (6) and (7), for “the travel authorisation amendments” substitute “the passport amendments”.
- (4) In subsection (13) –
- (a) after the definition of “the 1991 Act” insert –
- ““the passport amendments” means the amendments of the 1991 Act made by section 51 and Schedule 5 so far as relating to the disqualification of any person for holding or obtaining a United Kingdom passport; “United Kingdom passport” has the same meaning as in the Immigration Act 1971 (see section 33(1)).”, and
- (b) omit the definitions of “travel authorisation” and “the travel authorisation amendments”.
- (5) In the heading, for “travel authorisation” substitute “passport”.

*Identity Cards Act 2006 (Information and Code of Practice on Penalties) Order 2009*

- 22 The Identity Cards Act 2006 (Information and Code of Practice on Penalties) Order 2009 is revoked.

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